

DETAIL LISTING
FROM FIRST TO LAST STEP

TODAY'S DATE: July 6, 1993
TIME : 10:18 am
LEG. DAY IS: 111
PAGE : 1 OF 1

N L I S

1993

SB 466 By Commerce and Labor CRIME AGAINST NATURE

Prohibits certain sexual conduct in public. (BDR 15-1219)

Fiscal Note: Effect on Local Government: No. Effect on the State or on Industrial Insurance: No.

05/13 71 Read first time. Referred to Committee on
Judiciary. To printer.
05/14 72 From printer. To committee.
05/14 72 Dates discussed in Committee: 5/24 (WOR)
05/25 79 From committee: Without recommendation.
05/26✓ 80 Read second time. Amended. To printer.
05/26 80 (Amendment number 637.)
05/27 81 From printer. To engrossment.
05/27 81 Engrossed. First reprint✓
05/28✓ 82 Read third time. Passed, as amended. Title approved, as
amended. (14 Yeas, 6 Nays, 1 Absent, 0 Excused,
0 Not Voting.) To Assembly.
06/01 84 In Assembly✓
0 1 84 Read first time. Referred to Committee on
Judiciary. To committee.
06/01 84 Dates discussed in committee: 6/10 (DP)
06/10 92 From committee: Do pass.
06/11 93 Read second time.
06/14✓ 94 Read third time. Passed. Title approved. (29 Yeas,
12 Nays, 1 Absent, 0 Excused, 0 Not Voting.) To Senate.
06/15 94 In Senate.
06/15 94 To enrollment.
06/16 95 Enrolled and delivered to Governor.
06/16 95 Approved by the Governor.
06/17 96 Chapter 236.
Effective June 16, 1993.

(* = instrument from prior session)

S.B. 466 (Chapter 236)

Senate Bill 466 revises state law concerning sexual conduct. The bill removes the prohibition against performing certain anal or oral sexual activities in private between consenting adults of the same gender. The measure provides that performing such sexual activities in public, regardless of the gender of the participants, constitutes a felony.

Referred to Senate Committee on Judiciary

SENATE VOTE: 14-6-1

Referred to Assembly Committee on Judiciary

ASSEMBLY VOTE: 29-12-1

Effective June 16, 1993

S.B. 466 of the 67th Session

1993

SEXUAL CONDUCT

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SENATE BILL NO. 466—COMMITTEE ON COMMERCE AND LABOR

MAY 13, 1993

Referred to Committee on Judiciary

SUMMARY—Repeals prohibition against sexual conduct between consenting adults of same sex. (BDR 15-1219)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in italics is new; matter in brackets [] is material to be omitted.

AN ACT relating to crimes; repealing the prohibition against sexual conduct between consenting adults of same sex; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. NRS 201.195 is hereby amended to read as follows:
2 201.195 1. Any person who incites, entices or solicits a minor to engage
3 in acts which [would] constitute the infamous crime against nature : [if
4 performed by an adult:]
5 (a) If the minor actually engaged in such acts as a result, shall be punished
6 by imprisonment in the state prison for not less than 1 year nor more than 6
7 years.
8 (b) If the minor did not engage in such acts:
9 (1) For the first offense, is guilty of a gross misdemeanor.
10 (2) For any subsequent offense, is guilty of a felony and shall be pun-
11 ished by imprisonment in the state prison for not less than 1 year nor more
12 than 6 years.
13 2. A person convicted of violating any of the provisions of subsection 1
14 may not be:
15 (a) Paroled unless a board consisting of:
16 (1) The administrator of the mental hygiene and mental retardation divi-
17 sion of the department of human resources or his designee;
18 (2) The director of the department of prisons or his designee; and
19 (3) A psychologist licensed to practice in Nevada or a psychiatrist
20 licensed to practice medicine in Nevada,
21 certifies that the person so convicted was under observation while confined in
22 an institution of the department of prisons and is not a menace to the health,
23 safety or morals of others.
24 (b) Released on probation unless a psychologist licensed to practice in
25 Nevada or a psychiatrist licensed to practice medicine in Nevada certifies that
26 the person so convicted is not a menace to the health, safety or morals of
27 others.

1 3. As used in this section, the "infamous crime against nature" means
2 anal intercourse, cunnilingus or fellatio between natural persons of the same
3 sex. Any sexual penetration, however slight, is sufficient to complete the
4 infamous crime against nature.

5 Sec. 2. NRS 209.385 is hereby amended to read as follows:

6 209.385 1. Each offender committed to the custody of the department
7 for evaluation or imprisonment shall submit to an initial test, approved by
8 regulation of the state board of health, to detect exposure to the human
9 immunodeficiency virus. At the time the offender is committed to custody and
10 after any incident involving the offender:

- 11 (a) The test must be administered; and
- 12 (b) The offender must receive counseling regarding the virus.

13 2. If the results of any initial test are positive, the offender shall submit to
14 a supplemental test approved for the purpose by regulation of the state board
15 of health.

16 3. If the results of any supplemental test are positive, the name of the
17 offender must be disclosed to:

- 18 (a) The director;
- 19 (b) The administrative officers of the department who are responsible for
20 the classification and medical treatment of offenders;
- 21 (c) The manager or warden of the facility or institution at which the
22 offender is confined; and
- 23 (d) Each other employee of the department whose normal duties involve
24 him with the offender or require him to come into contact with the blood or
25 bodily fluids of the offender.

26 4. The offender must be segregated from every other offender whose test
27 results are negative if:

- 28 (a) The results of any supplemental test are positive; and
- 29 (b) The offender engages in behavior that increases the risk of transmitting
30 the virus, such as battery, the infamous crime against nature, sexual inter-
31 course in its ordinary meaning or illegal intravenous injection of a controlled
32 substance or a dangerous drug as defined in chapter 454 of NRS.

33 5. The director, with the approval of the board:

- 34 (a) Shall establish for inmates and employees of the department an educa-
35 tional program regarding the virus whose curriculum is provided by the
36 health division of the department of human resources. Any person who
37 provides instruction for this program must be certified to do so by the health
38 division.

39 (b) May adopt such regulations as are necessary to carry out the provisions
40 of this section.

41 6. As used in this section [, "incident"] :

42 (a) "Incident" means any occurrence, of a kind specified by regulation of
43 the state board of health, that entails a significant risk of exposure to the
44 human immunodeficiency virus.

45 (b) "Infamous crime against nature" means anal intercourse, cunnilingus
46 or fellatio between natural persons of the same sex.

47 Sec. 3. NRS 391.311 is hereby amended to read as follows:

1 391.311 As used in NRS 391.3115 to 391.3197, inclusive, unless the
2 context otherwise requires:

3 1. "Administrator" means any employee who holds a license as an
4 administrator and who is employed in that capacity by a school district.

5 2. "Board" means the board of trustees of the school district in which a
6 licensed employee affected by NRS 391.311 to 391.3197, inclusive, is
7 employed.

8 3. "Demotion" means demotion of an administrator to a position of lesser
9 rank, responsibility or pay and does not include transfer or reassignment for
10 purposes of an administrative reorganization.

11 4. "Immorality" means an act forbidden by NRS 200.366, 200.368,
12 200.400, 200.508, 201.180, [201.190,] 201.210, 201.220, 201.230,
13 201.265 or 207.260.

14 5. "Postprobationary employee" means an administrator or a teacher who
15 has completed the probationary period as provided in NRS 391.3197 and has
16 been given notice of reemployment.

17 6. "Probationary employee" means an administrator or a teacher who is
18 employed for the period set forth in NRS 391.3197.

19 7. "Superintendent" means the superintendent of a school district or a
20 person designated by the board or superintendent to act as superintendent
21 during the absence of the superintendent.

22 8. "Teacher" means a licensed employee the majority of whose working
23 time is devoted to the rendering of direct educational service to pupils of a
24 school district.

25 Sec. 4. NRS 391.314 is hereby amended to read as follows:

26 391.314 1. If a superintendent has reason to believe that cause exists for
27 the dismissal of a licensed employee and he is of the opinion that the immedi-
28 ate suspension of the employee is necessary in the best interests of the pupils
29 in the district, the superintendent may suspend the employee without notice
30 and without a hearing. Notwithstanding the provisions of NRS 391.312, a
31 superintendent may suspend a licensed employee who has been officially
32 charged but not yet convicted of a felony or a crime involving moral turpitude
33 or immorality. If the charge is dismissed or if the employee is found not
34 guilty, he must be reinstated with back pay, plus interest, and normal senior-
35 ity. The superintendent shall notify the employee in writing of the
36 suspension.

37 2. Within 5 days after a suspension becomes effective, the superintendent
38 shall begin proceedings pursuant to the provisions of NRS 391.312 to
39 391.3196, inclusive, to effect the employee's dismissal. The employee is
40 entitled to continue to receive his salary and other benefits after the suspen-
41 sion becomes effective until the date on which the dismissal proceedings are
42 commenced. The superintendent may recommend that an employee who has
43 been charged with a felony or a crime involving immorality be dismissed for
44 another ground set forth in NRS 391.312.

45 3. If sufficient grounds for dismissal do not exist, the employee must be
46 reinstated with full compensation, plus interest.

47 4. A licensed employee who furnishes to the school district a bond or
48 other security which is acceptable to the board as a guarantee that he will

1 repay any amounts paid to him pursuant to this subsection as salary during a
2 period of suspension is entitled to continue to receive his salary from the date
3 on which the dismissal proceedings are commenced until the decision of the
4 board or the report of the hearing officer, if the report is final and binding.
5 The board shall not unreasonably refuse to accept security other than a bond.
6 An employee who receives salary pursuant to this subsection shall repay it if
7 he is dismissed or not reemployed as a result of a decision of the board or a
8 report of a hearing officer.

9 5. A licensed employee who is convicted of a crime which requires regis-
10 tration as a sex offender pursuant to NRS 207.151 or convicted of an act
11 forbidden by NRS 200.508, [201.190,] 201.265 or 207.260 forfeits all rights
12 of employment from the date of his arrest.

13 6. A licensed employee who is convicted of any crime and who is sen-
14 tenced to and serves any sentence of imprisonment forfeits all rights of
15 employment from the date of his arrest or the date on which his employment
16 terminated, whichever is later.

17 7. A licensed employee who is charged with a felony or a crime involving
18 immorality or moral turpitude and who waives his right to a speedy trial
19 while suspended may receive no more than 12 months of back pay and
20 seniority upon reinstatement if he is found not guilty or the charges are
21 dismissed, unless proceedings have been begun to dismiss the employee upon
22 one of the other grounds set forth in NRS 391.312.

23 8. A superintendent may discipline a licensed employee by suspending the
24 employee with loss of pay at any time after a hearing has been held which
25 affords the due process provided for in this chapter. The grounds for suspen-
26 sion are the same as the grounds contained in NRS 391.312. An employee
27 may be suspended more than once during the employee's contract year, but
28 the total number of days of suspension may not exceed 20 in 1 contract year.
29 Unless circumstances require otherwise, the suspensions must be progres-
30 sively longer.

31 Sec. 5. NRS 391.330 is hereby amended to read as follows:

32 391.330 The state board of education may suspend or revoke the license of
33 any teacher or administrator, after notice and an opportunity for hearing
34 before the state board, for:

- 35 1. Immoral or unprofessional conduct.
- 36 2. Evident unfitness for service.
- 37 3. Physical or mental incapacity which renders the teacher or administra-
38 tor unfit for service.
- 39 4. Conviction of a felony or crime involving moral turpitude.
- 40 5. Conviction of a sex offense under NRS 200.366, 200.368, [201.190,]
41 201.220, 201.230 or 207.260 in which a student enrolled in a school of a
42 Nevada public school district was the victim.
- 43 6. Knowingly advocating the overthrow of the Federal Government or of
44 the State of Nevada by force, violence or unlawful means.
- 45 7. Persistent defiance of or refusal to obey the regulations of the state
46 board of education, the commission or the superintendent of publicinstru-
47 tion, defining and governing the duties of teachers and administrators.

48 Sec. 6. NRS 201.190 and 201.193 are hereby repealed.

- 1 Sec. 7. This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTIONS

201.190 Crime against nature: Punishment; definition.

1. Except as provided in NRS 200.366 and 201.230, every person of full age who commits the infamous crime against nature shall be punished by imprisonment in the state prison for not less than 1 year nor more than 6 years.

2. The "infamous crime against nature" means anal intercourse, cunnilingus or fellatio between consenting adults of the same sex.

201.193 Crime against nature: Sexual penetration. Any sexual penetration, however slight, is sufficient to complete the crime against nature.

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Sixty-seventh Session
May 24, 1993**

The Senate Committee on Judiciary was called to order by Chairman Mark A. James, at 2:05 p.m., on Monday, May 24, 1993, in Room 224 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Mark A. James, Chairman
Senator R. Hal Smith, Vice Chairman
Senator Lawrence E. Jacobsen
Senator Mike McGinness
Senator Dina Titus
Senator Raymond C. Shaffer
Senator Ernest E. Adler

GUEST LEGISLATORS PRESENT:

Senator Dean A. Rhoads

STAFF MEMBERS PRESENT:

Dennis Neilander, Senior Research Analyst
Sherry Nesbitt, Committee Secretary
Maddie Fischer, Primary Secretary

OTHERS PRESENT:

Larry M. Hyde, Lobbyist, American Civil Liberties Union
Sherri Lakin, Member of the Public
Carolyn Nelson, Member of the Public
Janine Hansen, Lobbyist, Nevada Eagle Forum
Holly Wilson, Member of the Public
Judith B. Corbisielo, Member, Nevada For Constitutional
Equality
Robert D. Smith, Member of the Public
Robert A. Fulkerson, Lobbyist, Nevadans for Accountable
Government
Kevin Kelly, Lobbyist, Nevada Attorneys for Criminal Justice
Lee Plotkin, Member of the Public
P. Kekaulike Roschill, Member of the Public
Dan Burdish, Member, Log Cabin, Las Vegas

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Roger Vogel, Member, American Civil Liberties Union
Myra A. Sheehan, Attorney
Jerry Cade, M.D., Founder, Director, AIDS Unit, University
Medical Center
Trudy Larson, M.D., Member of the Public
Ted Gioidano, Member of the Public
Leslie Fiske, Member of the Public
Darren Uhl, Member of the Public
P. Tyrone Smith, Lambden Business Association
Donald P. McNeill, Member, Nevadans for Constitutional
Equality
John D. Foulk, Minister, Glory Temple Church
Lynn Chapman, Member of the Public
Becky Maddox, Member of the Public
Dave Dawson, Member of the Public
Steven G. Paul, Lobbyist, Self
Karen Hayes, Member, Nevada Eagle Forum
David Hayes, Member, Nevada Eagle Forum
Rob Schlegel, Member of the Public
Martin A. Koehler, Member, Metropolitan Community Church
of the Sierras
David Horton, Lobbyist, Committee to Restore the Constitution
Alicia Smalley, Member, National Association of Social
Workers
Michael Quackenbush, Member, National Association of Social
Workers
Derek Moreno, Member of the Public
Jean Ford, Member of the Public
Caryn Sternlich, Member of the Public
Rabbi Myra Soifer, Rabbi, Member of the Public
Diane Williams, Member, Nevada Women's Lobby
Russell West, Jr., Member, University of Nevada, Reno Graduate
Student Association
Elisa Erquiaga, Member of the Public
Trudy Larson, M.D., Member of the Public
Kristina Chenevey, Member of the Public
Kelly Tuthill, Member of the Public
Paul Lorenzen, Member of the Public
Mark A. Barrett, Member of the Public
John Carroll, Member of the Public
Lucille K. Lusk, Lobbyist, Nevada Coalition of Concerned
Citizens
Pro-Life Andy Anderson, Lobbyist, C.H.I.L.D. of God
Kit Miller, Member of the Public
Maya Miller, Member, Nevadans for Constitutional Equality
Jeanine Thiplett, Member, Nevada Eagle Women
Joe Dahl, Member of the Public
Harry Johnson, Member of the Public
Linwood Tracy, Member of the Public
Helen A. Foley, Lobbyist, Nevada Nurses Association

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William A. Bible, Chairman, Nevada Gaming Control Board
Sharon Brandsness, Commissioner and Director, Nevada
Racing Commission
Judy Matteucci, Director, State of Nevada, Department of
Administration
Leo Fuchinelli, Chairman, Nevada Racing Commission

Senator James opened the hearing on Senate Bill (S.B.) 466:

SENATE BILL 466: Repeals prohibition against sexual
conduct between consenting adults of
same sex. (BDR 15-1219)

Kevin Kelly, Lobbyist, Nevada Attorneys for Criminal Justice, provided oral testimony in support of S.B. 466. He advised the bill expresses the privacy interest in which Nevada has a long history. He stated the committee had been provided with a package of documents containing various affidavits of biblical, sociological and medical experts. (A copy of this package is attached as Exhibit C and is located in the Research Library.) Mr. Kelly advised S.B. 466 is strictly a privacy issue. The bill is intended to clean up Nevada Revised Statutes (NRS) 201.190, and would preclude the government from entering into the privacy of an individual's bedroom. He explained this statute, when the criminal laws in Nevada were first compiled in 1911, came forth from common law. In common law, this statute, the infamous crime against nature, applied to both heterosexuals and homosexuals. There was nothing different in the common law as first enacted in Nevada in 1911. In 1977, the Nevada legislature amended NRS 201.190, and deleted any reference to heterosexual conduct. The statute then only prohibited homosexual or same gender sexual activity. Mr. Kelly stated this statute attempts to regulate or legislate morality. This was stated by the Nevada Supreme Court in 1914, in a decision In Re Benitez, 37 Nev. 146 (1914):

Nature has provided in the male and female the organs for the reproduction of the species. Any copulation by male with male or by male with female other than that copulation by and through the organs provided by nature for the reproduction of the species is an act against the order of nature. Hence, this must of necessity, be a crime against nature inasmuch as it is an act against nature's law.

Mr. Kelly advised the supreme court has always held this to be an act, and not the conduct or orientation of any person. This

is consistent with the holdings in common law, indicating that any sexual activity that did not result in procreation was against the nature of God. Mr. Kelly advised, to assure no misunderstanding, this bill has nothing to do with children, unwilling participants, but merely seeks to remove a law from the books which would invade the privacy of a man's home and his bedroom. Mr. Kelly advised there are six different statutes which would protect the public from any type of untoward conduct by anyone. He explained each of those statutes. NRS 200.366 prohibits sexual assault. This statute states that any sexual activity involving any unwilling participant would be a felony. If the victim is under 14 years of age, the punishment is life in prison with a minimum of 10 years. If the victim is over 14 years of age, the punishment is life imprisonment with a minimum of parole after 5 years of incarceration. If there is substantial bodily harm in the sexual assault, the punishment is life imprisonment with at least a 10 year minimum served. NRS 200.368 involves statutory sexual seduction. This statute pertains to anyone 18 years or older committing this crime on a person between 14 and 16 years of age. If the offender is over 21 years of age, the punishment is a felony, with 1 to 10 years in prison and a \$10,000 fine. If the offender is under 21 years of age, it is gross misdemeanor. NRS 201.195 is solicitation of a minor, a felony with a 1 to 6 year prison sentence. If solicitation occurred without any type of sexual activity, it is a gross misdemeanor. NRS 201.210 is the open and gross lewdness statute. The first offense is a gross misdemeanor, the second a felony with 1 to 6 years in prison and a \$5,000 fine. NRS 201.220, prohibits indecent or obscene exposure. The first offense is a gross misdemeanor, and the second offense is a felony, with 1 to 6 years and a \$5,000 fine. NRS 201.230, which is lewdness with a minor under 14 years of age. This is a felony, with 1 to 10 year imprisonment and/or a \$10,000 fine. Mr. Kelly advised that under either of the statutes prohibiting open and gross lewdness or indecent or obscene exposure, a certificate from a psychologist or psychiatrist is required before the offender would be considered for probation or parole. The certificate must indicate that the individual is not a menace to the health, safety or morals of others.

Mr. Kelly concluded by stating there exist a great number of protections in the statutes of the state of Nevada to preclude any conduct which would be inappropriate under any circumstances by anyone, whether they be minor or adult. The penalties are consistent with what has been true in the past, which is a gradation of offenses.

Senator Adler stated one concern which had been voiced to him by constituents regarding S.B. 466 is the feeling that these acts committed in public either by persons of the same sex or persons

of different sex should be a crime. He asked Mr. Kelly to respond to this concern.

Mr. Kelly advised that with the number of statutes already on the books, there is adequate protection to satisfy the concern of anyone except those who choose to regulate or legislate morality in the privacy of an individual's bedroom or home. He reiterated that 80 years ago, the supreme court indicated that even if the behavior involved a male and a female the behavior was against the law. He stated if the 1977 amendment had not been passed, any type of contraceptive or masturbation or anything which created sexual activity outside of having children would be a violation of the traditional common law definition out of the holiness code, referred to in Leviticus. Mr. Kelly stated there is ample support to advise constituents that they are more than protected, unless they wish to regulate morality.

Senator James asked the status of U.S. Supreme Court cases and federal constitutional case law on this issue.

Mr. Kelly advised State of Nevada vs. Noel is presently pending before the Nevada Supreme Court. This case challenged NRS 201 under the Nevada constitution. A decision was made by the U.S. Supreme Court, in Bowers vs. Hardwick, a case out of the state of Georgia. However, the difference between the statute considered in Bowers and the Nevada statute is that Georgia has a statute which precludes any type of fellatio, cunnilingus or anal intercourse between married adults. Therefore, in the Bowers decision, the court ruled on the due process argument, and were not imputed with an argument concerning single male or female versus male and female being a violation of the equal protection law. Mr. Kelly advised that Nevada is one of only five states having a statute precluding the acts between consenting adults of the same sex.

Senator James asked for and received confirmation that the equal protection problems with the Nevada statute, has never been argued at the supreme court level.

Mr. Kelly affirmed that Bowers dealt strictly with due process and whether the state had the right to regulate both heterosexual and homosexual activity. The court stated there was no violation of due process.

Senator James asked for and received confirmation that the Bowers decision indicated no violation of due process, leaving open the question of violation of the equal protection clause.

Myra Sheehan, Attorney, Member of the Public, testified in

support of S.B. 466. Ms. Sheehan's verbatim testimony is attached as Exhibit D.

Ms. Sheehan also provided the committee with proposed amendments to S.B. 466. A copy of those proposed amendments are attached as Exhibit E. Ms. Sheehan advised the bill and proposed amendments accomplish the goal of making it unlawful to commit certain acts against minors, protects prisoners from those who engage in acts which could spread the Acquired Immunodeficiency Syndrome (AIDS) virus, and repeals a law which is neither legally sound nor enforceable as written.

Senator James reiterated Ms. Sheehan's testimony that allegations under NRS 201.190 are used by vengeful spouses in order to gain advantage in a civil divorce case, and stated he understands these implications. He reiterated Ms. Sheehan's further testimony regarding NRS 201.190 being used to destroy people's lives, and asked what specifically she referred to in that context.

Ms. Sheehan replied her experience had been with private parties in domestic relation cases. She stated this has always surrounded the issue of custody. She advised in many cases a person has been restricted from visitation for the threat of having this law brought into the divorce court. She stated it has been used against people so they do not fight for custody, or ask for child support, or get visitation restricted. She advised she has never worked in the area of criminal law, and therefore, has not been involved in a case where the court has enforced this law.

Mr. Kelly added that Senator Brown had received information from Dana Bennett, Senior Research Analyst, Legislative Counsel Bureau, relative to a report from Tom Johnson who had checked with the central repository for Nevada records of criminal history. The date received indicated in the years 1990, 1991 and 1992, there were a total of 36 arrests under this statute statewide. He advised of that 36 arrests, one individual plead guilty, six of the charges were dismissed and four were convicted of lesser charges. This indicates that out of the 36 arrests, dispositions of only 11 were had. Mr. Kelly advised his experience has been that an individual may be arrested for any offense, the police reports go to the prosecutor who reviews them and finds he is unable to approve the charge because of failure to meet the burden of proof.

Senator James asked if Mr. Kelly was stating that the remaining 25 cases were dismissed.

Mr. Kelly stated there is simply no disposition for these 25

cases.

Senator James asked if those cases are pending.

Mr. Kelly replied that there is no basis to make that assumption. He indicated that this is a very common scenario in the criminal law field. Many times an individual has a great number of arrests, but on a report, for example, pending probation, several of those arrests will reflect no disposition. Generally those cases were not approved for prosecution by the prosecuting attorney.

Senator James asked if any case was found in which violation of NRS 201.190 was the only charge, and the case was prosecuted.

Mr. Kelly answered the only case of which he was aware, involving a private setting, was in Nye County. An individual apparently had an audio-video camera, and engaged in a violation of the statute. When the police searched the home for a drug-related offense, the video was found. The district attorney filed an additional charge of the infamous crime against nature. The district judge dismissed the charges for other reasons. Mr. Kelly advised this case is not reflected in the figures previously stated, because of its 1993 disposition.

Senator Adler asked for and received confirmation that Mr. Kelly was aware of only filing on acts committed in privacy.

Senator Adler asked if other cases are filed under the open and gross lewdness statute.

Mr. Kelly replied in those cases more often than not, the charges are reduced to open and gross lewdness. This is the case in Noel, presently pending before the Nevada Supreme Court. In that case, the prosecutor asked the court to dismiss the petition since it was now moot, and indicated that the state does not charge under NRS 201.190. At that point, the Nevada Supreme Court dismissed the charges. A motion was filed for reconsideration because an indictment had been filed on nine women for a live sex act taking place in Las Vegas at a convention.

Senator Adler asked the position of the District Attorney's Association on S.B. 466.

Mr. Kelly stated that in reviewing the sign-in roster, he did not see a representative from either the District Attorney's Association, the Judge's Association, or the Attorney General's Office, which is opposing S.B. 466.

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Senator Adler asked for confirmation that the District Attorney's Association has not come forward either way.

Mr. Kelly replied that the association was not coming forward in this body to oppose the repeal of this section of NRS.

Senator Adler asked for confirmation that it is Mr. Kelly's experience as defense counsel that for the most part even though the charge is filed, the charge is dropped somewhere along the line for another charge.

Mr. Kelly answered he finds that if, in fact, there are two individuals engaging in inappropriate conduct, and it involves a public setting, the charge more often than not will be open and gross lewdness.

Senator James asked for confirmation regarding the adult bookstore case. He asked if charges were made under NRS 201.190 and also another law, not open and gross lewdness.

Mr. Kelly replied that, to his knowledge, nine women were indicted under NRS 201.190.

Senator James asked how many counts were in the indictment.

Mr. Kelly stated there were allegations of pandering, living off the income of a prostitute and others. It was his understanding that the women were charged only with an infamous crime against nature.

Senator James asked what reason was given for dismissal of charges in the videotape case.

Mr. Kelly stated the order read that the case was moot because the district attorney had indicated in pleadings they short-circuited the petitioner's relief. The defendant had been charged with attempt of an infamous crime against nature, which is a felony. That was petitioned to the supreme court.

Senator James advised he was referring to another case, the videotape found in the rural case. He asked why the court dropped that charge.

Mr. Kelly recalled the court dropped the case because the videotape was beyond the scope of the search warrant.

Senator Adler asked if Mr. Kelly believes the current statute, as written, is constitutional.

Mr. Kelly replied he does not believe it is constitutional. He

stated his belief that if members of the district attorney's office and the attorney general were asked, they would say they do not believe this is a constitutional statute.

Jerry Cade, M.D., Founder, Medical Director, AIDS Unit, University Medical Center testified in support of S.B. 466. Dr. Cade advised the facility is a 24 bed inpatient AIDS unit, which is now and has been full for many months. He stated there are more than 30 AIDS patients in the hospital at this time. He advised he is the founder and was the medical director of the AIDS outpatient clinic at University Medical Center. That clinic was opened in 1986 with five patients, and the clinic now treats nearly 1,000 patients. Dr. Cade stated his private practice is exclusively limited to AIDS patients.

Dr. Cade asked to enter into the record a letter from former governor Grant Sawyer. Mr. Cade read the letter verbatim, and a copy of the letter is attached as Exhibit F.

Dr. Cade advised he and Dr. Trudy Larson cochaired the statewide AIDS advisory task force subcommittee on discrimination. He advised one recommendation from that subcommittee was the repeal of the statute addressed by S.B. 466. He stated he had sent to each member of the Senate Committee on Judiciary letters outlining his logic, along with the anti-discrimination statement and a composition of the subcommittee. He advised there was no dissent from the subcommittee on the entire anti-discrimination statement.

Dr. Cade provided oral testimony in support of S.B. 466. A copy of his verbatim testimony is attached as Exhibit G.

Trudy Larsen, M.D., provided oral testimony in support of S.B. 466. She advised she is an infectious disease specialist in Reno. She began taking care of AIDS patients at the University of California, Los Angeles (UCLA) Medical Center in 1981, before the disease was identified as AIDS. She has been involved with AIDS patients since her move to Nevada in 1983. She is currently a co-medical director of the Human Immunodeficiency Virus (HIV) Early Intervention Clinic in Reno, and has been on the statewide AIDS advisory task force since its inception under former Governor Bryan. She stated one thing conscientious physicians do is to take sexual histories. This is done basically to ask about activities which could place people at risk for getting various infections such as HIV. She stated that, pursuant to current statutes, the doctors ask about illegal activities in order to assess risks. Testing for HIV may imply to some that illegal activities have taken place. She stated it is difficult to create an environment of concern and put public health goals forward, facing a fear of recrimination

due to reporting of HIV results and possible crimes against nature charges. She advised barriers to testing for HIV in Nevada need to be decreased. A creative environment needs to be created to carry on counseling and risk reduction, which does not have criminal behavior as a background. She advised that, because doctors report HIV positive tests in Nevada, there has been a subtle switch for people to go to California for anonymous testing. She advised this is detrimental in three different ways. First, the person may miss the opportunity to hear about, and be referred to, early medical services available for those with HIV. It is clear that early intervention results in longer, healthier lifestyles and saves a tremendous amount of money. Secondly, there is no opportunity to locally assist those individuals in contacting their partners for testing and counseling. This activity is a traditional public health approach which notifies persons of potential exposure to HIV, and assists with testing and follow-up. This is a critical part of attempting to slow the spread of HIV, and cannot be effectively done if potential high risk behavior is criminal. Thirdly, for purposes of funding programs for HIV prevention and medical care, the federal government uses state statistics. If Nevada residents are going elsewhere for HIV testing and care due to concerns about their behavior, Nevada loses out on federal monies which can be used in this state.

Senator James asked where Nevada stands in the incidence of AIDS.

Dr. Larsen replied Nevada is usually in the top 10. She stated this is taken from reported cases in the United States. She advised California and Nevada have the highest incidence rates in the western states.

Senator James asked for and received confirmation that California has no law similar to that in Nevada.

Senator James asked how many states have a law similar to that in Nevada.

Mr. Kelly replied only five states have the same statute as that in Nevada.

Senator James asked how many states have a law applying to both heterosexuals and homosexuals.

Mr. Kelly answered 21 states have such a law. This includes the five previously mentioned.

Rabbi Myra Soifer, Member of the Public, provided oral testimony in support of S.B. 466. Ms. Soifer advised she has been

ordained for 15 years, and is a Rabbi in Reno. She stated in some ways she represents many more individuals than herself. Other members of the clergy, for reasons of scheduling conflicts, could not attend the committee hearing. She advised a letter will be read from one of these clergyman. She stated S.B. 466 involves a controversial moral issue. She advised that, because of this, the committee members would hear much about God and the bible regarding the bill. She suspected this testimony would be heard mostly from those opposing the bill. She stated there are many members of the clergy who are deeply committed to both God and the bible, who are on the side of S.B. 466. She stated particularly with regard to her own religious denomination, she advised that reformed Judaism is on record in several instances regarding this issue. She advised her denomination has congregations which are particularly gay and lesbian, and has formally passed measures welcoming gays and lesbians into all of the denomination's congregations, and it is on record that sexual orientation should not be a criteria for acceptance into the rabbinate. She stated that neither Nevada nor the United States is a theocracy. If it were, the legislature would have to change all sorts of legislation to follow biblical injunction. She stated S.B. 466 is a matter of the privacy of consenting adults whose behavior in no way affects other citizens of this state. She advised her job is to address any moral issues the bill may imply. She understands the legislature's job is to insure equal justice and freedom for all citizens of Nevada.

Alicia Smalley, Member, National Association of Social Workers, provided oral testimony regarding S.B. 466. She advised she is a licensed social worker and a certified rehabilitation counselor. She is on the national board of directors for the National Association of Social Workers (NASW), and cochair of the legislative committee for NASW, Nevada chapter. She advised NASW has a national membership of 140,000 members who are bound to adhere to the organization's code of ethics. She said S.B. 466 is consistent with NASW's beliefs. NASW's code of ethics states:

A social worker should not practice, condone, facilitate or corroborate with any form of discrimination on the basis of race, color, sex, sexual orientation, age, religion, national origin, marital status, political belief, medical or physical handicap or any other preference or personal characteristic condition or status.

Ms. Smalley advised the code of ethics further states that social workers should act to prevent and eliminate discrimination against any of these persons or groups. She

advised NASW will support the repeal of all laws against any form of consensual adult sexual activities. She stated that, because the social work profession has a responsibility for serving disadvantaged and oppressed groups and persons, social workers must ascertain the needs and promote the well being of these groups. A percentage of social workers and their clients are members of these groups. Ms. Smally stated at various times, many human behaviors have been defined as deviant; for example, masturbation, sexual relationships between unmarried people, and birth control. The NASW understands that the social definitions of homosexuality have varied over time. Homosexuality is no longer viewed as pathological by the mental health profession. She further stated that oppression of people has been expressed in religion, cultures, civil and criminal legal codes, and institutionalized discrimination. She stated S.B. 466 is a step in the right direction to alleviate this discrimination.

Michael Quackenbush, Member, National Association of Social Workers, Committee on Lesbian and Gay Issues, Nevada Chapter, testified in support of S.B. 466. He asked the committee to re-examine the state statute which discriminates against one group of people. He suggested this can be done by allowing consenting adults of the same sex the right to privacy and freedom of sexual expression without government intrusion. He advised historically, the profession of social work has been on record in its policy positions against discrimination, and supports the repeal of this specific legislation nationwide. He stated social workers are guided by the professional code of ethics. They are required to act to prevent and eliminate discrimination against any person or group. He stated that as social workers, his group asks specifically that the legislature repeal the Nevada crimes against nature law to end legal and institutional discrimination. He advised the policy statement of the NASW recognizes that homosexuality has existed throughout history and that same sex sexual orientation should be afforded the same respect as that of opposite sex sexual orientation. He stated the NASW appeals to the legislature to join them in their commitment toward ending discrimination of all people. He advised the NASW is committed to working toward the building of a society in which all people will be accepted as equals without regard to their sexual orientation. NASW affirms that individuals are entitled to the right of self-determination as long as this right does not infringe on others. He stated that, to this end, NASW shall support legislation and other appropriate means which will establish and protect the equal rights of all persons without regard to their sexual orientation. Mr. Quackenbush advised the Counsel on Social Work Orientation recently mandated that content on lesbians and gays be included in all university and college social work

curriculum nationwide.

Diane Williams, Member, Nevada Women's Lobby (NWL), testified in support of S.B. 466. Ms. Williams stated the NWL was created to promote equity for women and children, and its purpose is to be a unified voice which advances legislation affecting women and children in Nevada. She stated the NWL fights actively against discrimination based on gender, and finds the crimes against nature law to be discriminatory to the rights of women and their adult consenting partners. She advised the law is unconstitutional, because these crimes against nature are considered normal behavior between consenting heterosexual adults. She stated consenting same gender adults have the right to participate in these particular sexual acts in their own privacy as well.

Helen A. Foley, Lobbyist, Nevada Nurses Association (NNA), provided oral testimony in support of S.B. 466. Ms. Foley stated NNA's position is that people who are infected with the HIV virus should certainly come forward and be treated. The NNA would hate for individuals not to come forward because of fear of penalty by violating the current statute. Therefore, it could be very harmful, not only to themselves, but to all Nevadans.

Larry Hyde, Lobbyist, American Civil Liberties Union (ACLU), Nevada, provided oral testimony in support of S.B. 466. Mr. Hyde advised he is the chairman of the legislative committee of ACLU, Nevada. He stated he was also appearing as a citizen of Nevada and a member of a generation, growing up in the 1930s, which was taught to be homophobic. He advised it came only very gradually to him, and perhaps to others of his generation and later ones, to realize what business was it of theirs and why should they care what people do in the privacy of their own homes. He stated this is a privacy issue, and homophobia is based on a misunderstanding. He suggested homophobia is also based on an attempt to regulate morality. He stated government should not look to the bible, but to the constitution. He further stated the interest of government is non-existent in these cases.

Holly Wilson, Member of the Public, provided oral testimony in support of S.B. 466. Ms. Wilson's verbatim testimony is attached as Exhibit H.

Robert Smith, Member of the Public, provided oral testimony in support of S.B. 466. Mr. Smith's verbatim testimony is attached as Exhibit I.

Lee Plotkin, Member of the Public, provided oral testimony in

support of S.B. 466. Mr. Plotkin's verbatim testimony is attached as Exhibit J.

Martin Koehler, Member, Metropolitan Community Church of the Sierras, provided oral testimony in support of S.B. 466. Mr. Koehler advised Reverend Roy A. Cole, Minister, Metropolitan Community Church of the Sierras, could not be present to testify, and therefore Mr. Koehler read into the record Reverend Cole's letter to the committee. A copy of this letter is attached as Exhibit K.

Jean Ford, Member of the Public, provided oral testimony in support of S.B. 466. Ms. Ford advised she currently teaches women's studies and political science at University of Nevada, Reno. Ms. Ford advised she served as a senator in the 1979 and 1981 legislative sessions, and served on the Senate Committee on Judiciary for both of those sessions. She stated she felt of all the legislative committees on which she served, this was the one which most dealt with justice in the law. She stated service on this committee was a challenge, often a frustration. She stated some days were very hard when people came with strong opposing opinions based on upbringing, lifestyle, myths and stereotypes. She advised during her time in the legislature, and certainly before and since then, there has been a progression of change in Nevada. She stated that state legislatures have removed discriminatory laws. She advised the 1970s were probably the most active for the legislature in this area, and realization dawned that many laws on the books are discriminatory. She recalled many laws were removed; many with discrimination based on gender, some with discrimination based on age, some with discrimination based on handicap, and some with discrimination based on race. She stated each was difficult, and legislators did not have unanimous majority opinions coming from their districts that these things should be done. She suggested S.B. 466 asks the legislature to repeal a law which violates equal protection and privacy. She stated her belief that it is important for the legislature to now look at discrimination based on sexual orientation. She stated Nevada has far more important things to do than to try and regulate an individual's private behavior. She stated that individuals in Nevada are allowed to openly buy sex in many counties, but no guidelines are put on the type of sex. She suggested consenting adults should be allowed to go about their private business without the government intruding. She stated her belief that the important thing for the committee to do was what is right, which is to pass S.B. 466, and then to work to educate all Nevadans regarding why protection of all individual privacy rights is so important.

Russell West, Jr., Member, University of Nevada, Reno (UNR)

Graduate Student Association, provided oral testimony in support of S.B. 466. Mr. West stated he is currently a master's degree candidate, and president-elect of the graduate student association. Mr. West advised in the past week, he had met with the student body presidents from Truckee Meadows Community College, Western Nevada Community College, the present UNR president of associated undergraduate students and the outgoing UNR associated undergraduate student president. He stated he and all others mentioned urged the passage of S.B. 466. He advised he met in the past week with Joseph Crowley, President, UNR, who told Mr. West he would send a letter to the committee supporting S.B. 466. Mr. West advised in the Spring of 1991, the University of Nevada broadened its affirmative action policy upon recommendation of the faculty senate, to include sexual orientation. He advised this action was taken because it is in the nature of the university community to fight all discrimination through the search for knowledge. He stated the university's mission is based on the individual's right to be free from unwarranted intrusion or discrimination in private matters. Mr. West suggested that as people recognize the individual's right to write, to inquire, and to speak, it must also be insured that no one's right to individual liberty and privacy is limited. History has taught that the infringement of one right will often lead to the infringement of many. Mr. West advised, therefore, that he and his fellow student government leaders heartily urge the recommendation of S.B. 466 to the full senate.

Elisa Erquiaga, Member of the Public, provided oral testimony in support of S.B. 466. She stated that no one present at the hearing was asking for special treatment or privileges. She advised these people are simply asking that S.B. 466 extend privacy rights to everyone equally. She stated one thing that being a Nevadan means to her is that the state recognizes what is most human about people is the variety and diversity of lifestyles and expressions. People want to celebrate their differences as well as acknowledge their similarities. She stated this is important to the residents of Nevada, and is what is affirmed in Nevada's laws. She advised history provides scientific evidence of the inferiority in people based on the color of their skin, and biblical arguments which support the idea that the sun is not the center of the universe. She stated her hope that the legislature would step back, take a broader look, and say humans are diverse with diversity in expression, and affirm this by supporting S.B. 466.

Senator Titus stated she agreed with Senator Ford regarding issues heard by the Senate Committee on Judiciary. The committee deals with such important issues, and the testimony heard is always moving. She recalled testimony regarding

previous bills on child abuse, stalking, and others. She stated her belief that no other testimony had been more moving or important than what the committee has heard today. She further stated her belief that the committee should commend and thank the people who are willing to talk about this issue of privacy, and what is probably the most private things in their lives.

John Carroll, Member of the Public, provided oral testimony in support of S.B. 466. His verbatim testimony is attached as Exhibit L.

Senator James asked that the written testimony of Bob Fulkerson, Lobbyist, Nevadans for Accountable Government, be included in the record. Mr. Fulkerson was not able to testify in person. Mr. Fulkerson's written testimony is attached as Exhibit M.

Sherri Lakin, Member of the Public, provided oral testimony in opposition to S.B. 466. She stated she is opposed to the bill due to its connection with pro-homosexuals, a very small yet highly active special interest group. She stated her belief that, just as the voice of this special interest group did not start with S.B. 466, it will not stop there. She referred to a paper written by Michael Swift, known as "the gay revolutionary." Ms. Lakin stated this paper was first published in a paper called "The Gay Community News," and the copy she had was reprinted from the July 27, 1987 Congressional Record. A copy of this paper is attached as Exhibit N. She stated this is an essay on the dream of the homosexual activist, and tells how homosexuals wish to gain power. Ms. Lakin read from the paper, quoting nearly all of the text. She stated the paper speaks of what moral people do not speak of, in the homosexuals' desire to do physical things to boys and men. She stated, however, the desire to overcome them and society in spiritual and emotional ways are even more horrible. She advised the paper says how homosexuals would like to kill and defile those who think what they do is wrong. She stated the paper says how surprised the public might be to discover how many highly visible people are homosexuals. Ms. Lakin stated her belief that if S.B. 466 is passed, the public will be playing into the hands of the activists who hate morality, family, government and the human race.

Carolyn Nelson, Member of the Public, provided oral testimony in opposition to S.B. 466. She stated her objection to considering making it lawful for adult males or adult females to have relations with one another. She stated this plays into the hands of disease. She stated heterosexuality contributes to society by creating the race and uniting the genders in the most intimate, meaningful bond. Whereas, homosexuality costs society. She stated many homosexuals become indigent and the

cost for this is covered by taxpaying citizens and those who pay extra high rates in hospitals to cover the expenses of the indigent. She stated diaries were kept by gays. Several of these diaries suggested these people had close to 100 partners per year. She stated when this rate of activity occurs in the adult population, there will be more disease. She advised that with the garden variety of the germs mutating, coming into our country and going to other countries, the citizens of Nevada need to take some responsibility and not allow this to happen. She stated when a law encourages or condones a behavior, the behavior will probably expand and increase. She advised if drunk driving were to be made acceptable, there would probably be more of this behavior. However, when people know there is a law against an activity, they tend to think more about committing the behavior which is unlawful. She stated, regarding the exchange of viruses, bacteria, and fungus which occurs among homosexuals, garden variety sexual practices of homosexuals are a medical horror history. She stated dozens of different men each year get together and exchange these viruses. She stated many if not most of these encounters occur while the participants are drunk, high on drugs, and/or in an orgy setting. She stated many of these encounters occur in extremely unsanitary settings. She further stated that a 1984 Denmark study showed one-quarter of homosexuals visited the United States during that year, and many had gone on to New York, Las Vegas, and other cities. She stated those living in the United States were going to foreign countries. She advised this population of homosexuals and lesbians is a cesspool for disease. She asked if this is what Nevadans want for our society, and to drain the financial resources of Nevada.

Janine Hansen, Lobbyist, Nevada Eagle Forum, provided oral testimony in opposition to S.B. 466. She stated she had with her a stack of petitions collected in about 1984 in Washoe County, when her organization was engaged in a battle to stop the gay rodeo. She stated over 8,000 signatures were gathered in 1 week. She stated her belief that this expresses the concerns of much of the public in promoting and celebrating the homosexual lifestyle. She stated her belief that it is important to recognize that today, many of the people who signed the petitions are not represented, and their concerns about their community need to be represented. Ms. Hansen stated she is a native Nevadan, and has real concerns regarding changing the law with S.B. 466. She stated not only does the bill condone an activity which in many cases leads to abuse and other problems, but also puts the public on a slippery slope of other connected problems. She stated that, because of her position of opposing the gay rodeo, she has suffered harassment. Her name, address, phone number, business phone number, her mother's phone number, and her brother's business numbers were all published in

the homosexual publication in Las Vegas for distribution with the indication to harass her and members of her family. She stated when she was at the state fair gathering signatures, she was harassed and several times had to call security guards for protection because of the violent threats received. She stated oftentimes when she has spoken on this subject she has felt extreme concern regarding her safety, and stated she would not speak again unless she had someone with her for protection. She stated this points out to her what is obvious. She referred to what is happening to the Boy Scouts. She stated it is not the purpose of homosexuals to gain rights just so they can exercise them themselves. Rather, she advised it has been the position of advocacy and forcing their lifestyle on others which has caused concern. She stated her son is a Boy Scout. She advised the scouts have suffered the persecution of the homosexual movement, because of the movement's political advocacy that the scouts should be forced against their freedom of association and freedom of belief, to engage homosexual scout leaders. She stated this is very objectionable to many parents who find homosexuality a threat to their children and families. She stated her organization's concern with S.B. 466 is that it is a point of advocacy for the homosexual lifestyle which will deny many other people's rights. She advised she has seen this in her own life as she has been persecuted for her political point of view. She stated previous testimony indicated same-sex relationships should be afforded the same respect as other relationships. She asked if this means they want homosexuals to be allowed to marry, adopt children, and have foster children. She stated as S.B. 466 is eliminated, all of those other issues will come into view. She stated if not this year, in the next session, legislators will be forced to say they voted for or against the first step in an advocacy point of view for homosexuals. She quoted from an article in the Reno Gazette Journal regarding a Nevada court case:

The Nevada Supreme Court refused 3 to 2 Thursday to restore parental rights to transsexuals who underwent a sex change operation and switched names from Tim to Suzanne Daly. The majority opinion written by Justice Thomas Stephen held that the termination of parental rights is best because of the risk of serious maladjustment, mental or emotional injury to the 12 year old daughter. The girl, according to her mother, viewed Suzanne Daly as weird and gross. Future prospects for emotional family stability are also dimmed by Suzanne's indication the child should know her friends who include lesbians, homosexuals, and transsexuals.

A copy of this article is attached as Exhibit O. Ms. Hansen

stated this kind of problem will begin to surface more and more often as homosexuals seek custody of their children, and the great concerns of many parents surface.

Ms. Hansen then referred to a copy of an article from the Gay Community News, December 17, 1983. A copy of this article is attached as Exhibit P. Ms. Hansen advised this article is from the National Man Boy Love Association (NMBLA). She stated that, although S.B. 466 does not legalize sex with children, once the floodgate is let down, the continuing pressure will mount as it has everywhere. She stated the purpose of the NMBLA is to eliminate all laws regarding sexual consent. She stated one statement made by Boston activist Charles Shivley, speaking before a NMBLA conference said he wished to attack the pre-supposition that parents have a heredity right to their children that homosexuals do not have. She stated this means, in other words, homosexuals seek to undermine, eliminate and destroy the parental responsibility for their child. She stated Shivley also proposed abandoning the term "age of consent," saying that everyone is born having consent and the state takes it away. She stated this means little children and teenagers are born with the right to consent to be abused by pedophiles and others.

Senator James asked if Ms. Hansen was suggesting that S.B. 466 had something to do with that kind of activity.

Ms. Hansen stated she is suggesting that the bill will open the floodgate to the problem. She stated S.B. 466 is only the first step in legalizing, condoning and recognizing homosexuality to be on an equal footing with heterosexuality. She stated it is her organization's concern that children will be victimized by the acceptance of homosexuality.

Ms. Hansen stated that David Thorstad, another NMBLA member, criticized the gay movement for avoiding the question of age of consent and called for greater discussion of the issue. She advised that Mr. Thorstad stated that each case should be considered individually. Ms. Hansen wondered if they are going to ask the child, rather than the parents, what he thinks. She stated Mr. Thorstad said the organization had tried to link the issue to the question of empowering and liberating young people. She stated apparently, Mr. Thorstad feels that to allow children to be sexually abused is to empower them.

Senator Titus stated she had been reading the same article from which Ms. Hansen skipped over to the highlighted sections. Senator Titus stated the article discusses a member of the organization who criticizes the gay movement because it has not taken the position he has taken. She advised the article goes on to say the organization has avoided the questions and caused

a great deal of controversy in the gay movement. She stated this would suggest that NMBLA is a very small group within the gay movement, and not the approach of the gay movement at all, which was what Ms. Hansen is trying to suggest.

Ms. Hansen advised the article is from 1984, and there is much more liberal thinking today than there was previously.

Senator Titus asked if Ms. Hansen has a more recent article which would substantiate this assertion.

Ms. Hansen stated she did not have an article with her, but they are available. She advised she was not suggesting that all homosexuals are involved in this type of activity. Her purpose in bringing this up was to identify a problem about which parents and many people such as those who signed her petitions have concerns. She stated the major concern is with their children, the promotion of homosexuality as an acceptable lifestyle, and the problem it brings to today's society. She stated the article is one example of an ideology and philosophy which is threatening families.

Senator Adler asked if Ms. Hansen's focus is against public or private activities.

Ms. Hansen stated her concern is with the public acceptance of homosexuality. She stated she does not believe it is practical to invade people's bedrooms to find out what they are doing. Her concern is with the public's acceptance of homosexuality.

Senator Adler asked if Ms. Hansen does not object to a law outlawing private activity, but objects to public activities.

Ms. Hansen stated she supports the law as it is currently written, which would also outlaw private activity. However, she stated her belief that this tends to hold the gate which would open the problems of homosexuality.

Senator Adler asked if Ms. Hansen cared to focus any resources on private activities.

Ms. Hansen answered that she did not wish to do this.

Ms. Hansen then referred to a study which was in the Nebraska Medical Journal. This study states that in the United States in the 1940s, about 14 percent of homosexuals admitted to having sex in public restrooms. She stated as of 1983, that had increased to 66 percent. She stated this is a concern to many people who feel this is not necessarily a private activity when it is conducted in public places. She further stated that, as

homosexuality is accepted and condoned, these activities will increase.

Ms. Hansen referred to a videotape of a gay parade in San Francisco in 1991, which also contains excerpts of a gay parade held in public in Washington, D.C. She stated the videotape is so obscene that it was very difficult for her to view. She stated she would submit it to committee for those members who would like to see the kind of public sex activity which is taking place in places where there exists no law protecting people from these types of activities. She stated her belief that it is important for each member of the committee to watch precisely what goes on in other areas. She stated it is beyond her interest to describe those activities which are a part of homosexuality, but that it would be important for the committee to have a first-hand experience of looking at the videotape. She also advised she would leave a brochure which discusses what homosexuals do in those activities.

Ms. Hansen stated her position is that the law should be maintained which will provide a means of protection for families and the ensuing problems of promotion and acceptance in the law of homosexuality. She stated what homosexuals do in their bedrooms obviously had not been pursued in the state of Nevada and is not the issue. She stated the issue is the public acceptance and the condoning and promotion of homosexuality. She stated her belief that if the committee would talk to their constituents and determine their stand on the issue, they might find there is a very different public sentiment which has been indicated by those who have opposed the issue of homosexuals in the military. She stated there are concerns which are being ignored in the testimony previously heard by this committee.

Senator James asked if Ms. Hansen was suggesting that the current law is preventing this type of public activity from happening in Nevada, and that if the law is repealed that kind of thing will go on in this state.

Ms. Hansen stated her belief that the law as it stands is a deterrent, particularly for public sex. She further stated that as homosexuality is condoned the concerns of parents will increase, the family will continue to feel the assault of the homosexual movement. Many people who feel their rights have been violated by the political agenda of the homosexual such as in the boy scouts will have less opportunity to oppose the activity, because homosexuality will come on an equal footing with heterosexual and marriage relationships. She reiterated this will open the floodgate to such things as homosexual marriages and adoption of children. She stated S.B. 466 is just the beginning, and her organization is very concerned about

public acceptance and promotion of homosexuality.

Senator James asked for confirmation of Ms. Hansen's understanding that S.B. 466 does not legalize any public acts. He reiterated Mr. Kelly's testimony regarding seven statutes which make that and other conduct illegal. He stated that if this law is repealed, it only repeals the law making these acts a felony between consenting adults.

Ms. Hansen stated she understood the bill, but that this would not be the only thing repealed. She stated her belief that public acceptance of homosexuality would result in the other laws being jeopardized. She stated that public acts are already in existence, even though they are not legal.

John D. Foulk, Minister, Glory Temple Church, provided oral testimony in opposition to S.B. 466. He reiterated previous testimony that someone would be at this hearing with the word, and stated that he must speak out as a minister. He stated his understanding of S.B. 466, as far as saying it does away with the law against consenting adults. He agreed there had been stirring testimony regarding this law. He stated he had observed that the law has not put anyone in jail for having sex in their bedroom. He stated he did not see anyone, when Mr. Smith admitted he was homosexual, putting handcuffs on him and taking him away to jail. He referred to the testimony of the man representing the Metropolitan Community Church, a homosexual church, and stated no one has arrested that church or the members for having homosexual relationships. He stated no one has taken the law in Leviticus 20:13, speaking about a man laying with another man as he lays with his wife being put to death. He advised he does not advocate this, but does believe as a minister of the gospel that the law in Nevada has been on the books for a number of years. He stated that it is a gate to prevent other activities and stated he feels very strongly the law should stay the way it is. He referred to the videotape offered by Ms. Hansen, and stated viewing it would make a person regurgitate and be disgusted. He stated that by retaining the current law on Nevada books, is to say to the people that the state is opposed to this type of activity in our community and that homosexuality on the street will not be condoned. He referred to public homosexual activity in San Francisco increasing as the laws have become looser and more free. He referred to Romans 1, speaking about God giving the people over to a reprobate mind because the men left their natural use for women and women left their natural use for men, and became bed partners. He stated his belief that if the current Nevada law is removed the legislature is saying it is alright to do this. He stated his belief that the current law is a deterrent to other laws which will be passed in generations to come. It will

open doors for gay couples to adopt children and other activities. He stated his belief that the current law upholds the morality upon which our nation was established in the beginning, which was the word of God.

Senator James referred to Reverend Foulk's statement that if the law was being enforced he might look at it differently. He asked, for example, if someone started to enforce this law would Reverend Foulk then urge the legislature to act to repeal the law.

Reverend Foulk stated at that time he would have to reconsider the matter. He stated that, even though he does not advocate the law in Leviticus 20:13, he believes these men are killing themselves.

Lynn Chapman, Member of the Public, testified in opposition to S.B. 466. She stated she has had acquaintances who have died of AIDS, is acquainted with homosexuals, and is very fearful for them. She stated she did not understand how the behavior which spreads this disease can be condoned.

Senator James advised the law is not being enforced.

Ms. Chapman asked who is to say the law would not be enforced at a later time. She stated perhaps the law was made for a reason.

Senator Adler stated his belief that there is some misconception. He advised this is not an old law, but rather was amended in 1977 to address homosexuals, and the prior law outlawed this behavior among any individuals.

Senator James stated it seems that what all the medical people are saying is fairly accepted scientific knowledge. That is that AIDS does not care what sex someone is or what is their sexual persuasion.

Ms. Chapman stated the problem is that by repealing the law, an okay is being put on the behavior which can cause the spread of the disease and can cause death.

Senator James asked Ms. Chapman to respond to the medical people who testified that the existence of the law prevents people from getting tested for AIDS. Therefore, these people do not know they have the disease and continue to spread it unwittingly without having received treatment or knowledge of prevention. He stated his concern and his question was how Ms. Chapman would respond to whether or not the law needs to be repealed to encourage that testing and get the disease under control.

Ms. Chapman stated she found it hard to believe that people are afraid to come forward and have testing when there is a homosexual church practicing openly in the Reno area. She stated if homosexual people are not afraid to attend their church, being afraid to go in for testing does not make sense.

Senator James reiterated the doctor's testimony, and stated that it rings true to him that people who fear what they are doing is illegal would be afraid to come forward and be tested. He stated this law might be a deterrent to coming forward for testing, but is not a deterrent to the conduct itself.

Ms. Chapman reiterated repeal of the law would be acceptance of a lifestyle, which possibly is not acceptable to the majority of the people.

David Horton, Lobbyist, Committee to Restore the Constitution, provided testimony in opposition to S.B. 466. Mr. Horton stated he is a former district attorney in Lander County. He wondered how many members of the committee saw the C-Span program on Saturday, May 22, 1993, dealing with homosexuality. He stated this program provided much information which may be of interest to the committee. He stated he was struck by the pattern of strategy described there as to how the homosexual movement is using influence on the press and education to attain their ends, and the instrumentalities he had seen focusing in the testimony at this hearing, which are in conformity with that strategy. He advised an AIDS test is not the basis for a sodomy prosecution. He stated sexually transmitted diseases have for a long time been associated with conduct which has been criminal in one degree or another. He stated the question of testing as opposed to transmission is what needs to be focused upon. He stated this is not a civil rights issue, but rather a public health issue. He advised much attention in the media has been addressed to this being a civil rights issue. He suggested this is particularly dangerous when dealing with a situation where AIDS as a retro-virus, having a long incubation time, is very difficult to quarantine against, to detect, and to intercept in its course. He stated the information which is coming to the fore indicates that AIDS may be much more highly contagious and infectious than initially was supposed. He advised his son is engaged in microbiology research, and is currently conducting an experiment to see whether AIDS vaccination can be increased by civil orders of magnitude as to its possible success. He stated his view that changing the sodomy law is making his son's job more difficult. He stated the morality question has been alluded to, but there is another consideration. He advised Dante condemned the sodomites and the usuries to the same corner of Hell on the ground that they were both against the natural increase of nature. He stated regardless of what standards are

used, it is known that there are certain inherent laws, regardless of what religion is practiced, and even if none is practiced. He stated one of these laws is that if society is trying to inculcate values in our youth, it makes it harder to inculcate constructive moral values if Nevada says that sodomy is okay. He stated this is what S.B. 466 seeks to do. He stated it has been said that this is a matter of privacy in a bedroom, and if so, these people are not bothered by the sodomy law. He stated this is not where it ends. He asked who is to pay the medical costs of \$150,000 plus for looking after the terminal AIDS patient who was infected by the indirect encouragement of this type of admittedly high-risk activity. He stated he was shocked regarding the suggestion to do away with the sodomy law, to better handle the AIDS crisis. He stated his belief that this is a non sequitur. He stated his belief this would tend to accentuate the problem, not only with regard to any deterrents of encouraging youth not to engage in this practice, but also from the practical standpoint of condoning certain types of behavior tending to make difficult the discouragement of other types. He stated that he was not deterred from moving to Nevada 34 years ago and raising three children here because of the law against sodomy.

Paul Lorenzen, Member of the Public, testified in opposition to S.B. 466. He stated the only special interest group he represents is the registered voter. He stated he has listened to the gay rights movement discuss the issue of AIDS and gays. They say on the one hand that government should devote more attention, funds and research into AIDS because it is a problem shared by everyone. He stated this gives the impression that this disease is so dangerous to the whole population that major resources should be invested. Yet, on an issue such as S.B. 466 the issue of AIDS is brought up on the flip side of that perspective where to discriminate against gays is to discriminate against victims of AIDS, as though the major problem with AIDS is within the gay community. Mr. Lorenzen stated his belief that one of those positions needs to be taken, perhaps at the expense of the other. In his opinion, the second is the better position, that AIDS is an issue of the gay community, because expansion of AIDS in the heterosexual community has not been documented. He asked the committee not to let this discord confuse the issue. He stated his second concern is the issue of discrimination based on sexual preference. He advised many laws in the civil rights area are based on the principle of nondiscrimination based on race, sex, age, and so forth. He stated these are all based on non-behavior features. He said to discriminate on someone based on those sorts of things is something a person has no control over, and is in fact unfair. He stated the law in question does not deal with something a person has no control over, but a

particular behavior. He stated he could say he had a tendency to be a thief.

Senator James asked about religion which is not something a person is born with, and cannot be the basis of discrimination.

Mr. Lorenzen agreed, and stated this is a freedom based on the constitution.

Senator James stated Mr. Lorenzen said discrimination concerns should not extend to something which is behavior based. However, society does not discriminate against someone on the basis of the religion a person chooses to practice. Therefore, why should society discriminate on the basis of another behavior.

Mr. Lorenzen reiterated that freedom of religion is established in the constitution. The others are issues of fairness, based on something a person has no control over. He stated his point is that to claim the current issue is a civil rights law is improper, and that it is a behavioral regulation. He urged the committee not to confuse this with a civil rights issue. It is a governing of behavior which, as long as the majority of the people of the state feel it is an inappropriate behavior and harmful to society, ought to remain on the books.

The punishment for a felony is 1 to 6 years in the state penitentiary. Senator James stated he did not understand why this is logical. If people are engaging in this conduct and are committing a crime, the legislature would be reaffirming again the desire for it to be a crime if S.B. 466 is not passed. He stated if that is the case, the law would still not be enforced. Some of the witnesses in favor of keeping the law say if the law were enforced it should be repealed. Senator James stated that, if the law was enforced, all of the citizens of Nevada engaging in this conduct could be put behind bars. His question was, why keep such a law on the books? Is it to protect some larger social agenda or to stop the floodgate? He asked why these questions should not be addressed when they arise. He stated the question here is whether someone who engages in this conduct is worthy of a sentence of imprisonment, as would be any other felon - - why an otherwise law abiding citizen who breaks no other law, is a functioning, taxpaying member of society, who engages in this conduct is a felon, and belongs behind bars. Senator James asked how in this day and age society can justify keeping such a law around.

Mr. Lorenzen stated this is not a civil rights issue. He stated this is a conduct issue, and he urged the committee to keep that point in mind. He stated, as to the enforcement issue, there

are many laws in the state which are not enforced with many infractions, for example the 55 mile per hour speed limit law. He stated enforcement tends to come after the violation gets more severe than simply a technical violation. He stated his belief that this is probably an appropriate response for law enforcement. As long as the behavior, spoken to in the law at issue, is confined to private homes and is not causing other complications or validating other harmful behavior, perhaps the enforcement should be in the same manner. When it becomes part of a pattern or causes other ramifications, it would become another component of the enforcement which may be available. He reiterated his belief that there are many unenforced laws on the books, which does not necessarily mean those laws should be removed.

Senator James asked what good it does to have a law on the books which is not enforced.

Mr. Lorenzen replied that it makes a statement.

Senator James stated adultery and pre-marital sex is not condoned, but there is no law making it a felony. He asked why there should not be a law against adultery in Nevada. He stated it is not a crime to commit adultery, but stated his belief that everyone who believes in the institution of marriage or religion would say it is wrong to commit adultery.

Mr. Lorenzen stated Senator James' example might point out the very reason the opponents of S.B. 466 think the law should remain. He stated that, because there is no law against adultery and pre-marital sex, there is rampant adultery and pre-marital sex. He stated in the early part of this century there existed a different value system which was implanted in our society by other means. He further stated our society does not enforce these values and therefore the values dissipate. He stated his belief that by removing the law at issue, the same result would occur. The value system which our society is trying to hold together would dissipate also.

Mr. Lorenzen stated, regarding people not coming forward for testing for AIDS because of threat of enforcement, he suggested this could be resolved by having an amnesty provision in the law. He suggested the law could state that if someone came forward for testing on his or her own volition, that person would have amnesty against prosecution.

Mr. Lorenzen stated he would like the committee to consider the adage, "your rights end where my nose begins." He stated that if the impact of the behavior being discussed in this law stayed within a person's bedroom and had no impact on the rest of the

public, the removing of the law might have merit. He stated, however, there seems to be much evidence in scientific literature that homosexual population tends to have a higher degree of AIDS. He stated this affects him because the health costs increase and insurance costs go up. He stated his belief that he should have a right to have a say in the kind of behavior of other people which ends up impacting him financially.

Senator James stated he had heard just the opposite. He had heard that in one of the African countries AIDS was spreading so fast in the heterosexual population that this is now the major concern. He stated he did not have written data in this regard, and would welcome anyone in the medical community to provide him with this data. He referred to Mr. Lorenzen's earlier statement that AIDS is not a heterosexual disease. Senator James stated his belief that it really is in other parts of the world, and it should be taken seriously in this country.

Mr. Lorenzen agreed that there are parts of the world having much greater expansion of the disease in the heterosexual community. He stated he has read and been told by medical experts that the act of sodomy, having to do with the anal passage, tends to generate a higher degree of bleeding than would vaginal intercourse. Because of the higher incidence of bleeding which is caused by that particular act, and the fact that AIDS spreads by bleeding or transmission by fluids, that this is one of the reasons why a homosexual act would tend to transmit the disease easier than a heterosexual act.

Senator Adler stated the committee had heard much debate over AIDS and whether or not the passage of the bill would create a health risk. He stated if this was what was being done, the legislature would certainly make cigarette smoking a felony as well. He stated he was not sure which way all of the arguments over AIDS cut, having listened to the physicians and people on the other side. He stated he was not sure this information should decide the bill, because the information seems to be fairly inconclusive.

Mr. Lorenzen stated Senator Adler's point was well taken.

Senator Adler stated alcoholism is an activity which society should discourage, as is cigarette smoking. He advised he had lost more friends to cigarette smoking than anything else.

Mr. Lorenzen stated he appreciated the committee's attention to his comments. He suggested that, while he is not a medical expert, if medical aspects are a concern perhaps a panel of experts on both sides might be helpful.

Senator Shaffer stated he believed Mr. Lorenzen had made a very positive suggestion. He suggested if the committee's concern is in addressing the medical problem, and the desire is to treat everyone without the possibility of arrest, an exemption could be made in the law to omit those coming forward for testing for prosection, and leave the law on the books.

Senator James advised that the committee would hear the testimony regarding S.B. 475, and would then continue with the hearing on S.B. 466. The hearing was closed on S.B. 466.

Senator James opened the hearing on Senate Bill (S.B.) 475.

SENATE BILL 475: Eliminates Nevada racing commission and transfers responsibilities to Nevada gaming commission. (BDR 41-1994)

Senator Dean A. Rhoads, the sponsor of the bill, provided testimony on S.B. 475. He presented a background on the Nevada Racing Commission and his involvement with the commission. He stated he was past president of the Elko County Fair Board which has put on the Elko County Races for some 15 years. He therefore spent much time with the Nevada Racing Commission and some of the problems and mandates. He advised many dedicated people have served on the Nevada Racing Commission. During the past 18 to 20 years, only Elko, Ely and Winnemucca have attempted to put on horse races, and Las Vegas continually tries to put on a dog racing track. He advised for these reasons, finances have been struggling and many people have put in volunteer time and many have back pay due them at this time. He stated he reluctantly favors putting the Nevada Racing Commission under the Nevada Gaming Control Board. He believes that, until a major track is established, the three county meets will be suffering financially. He believes it is important to keep these racing meets going, as it helps tourism in Nevada and the diversity of industry. He stated that perhaps with proper funding from the Nevada Racing Commission, the races could continue and perhaps prosper and become larger.

Judy Matteucci, Director, State of Nevada, Department of Administration, explained S.B. 475 was essentially pulled out of the Governor's proposal for reorganization into this separate bill. The purpose is to expedite handling the transfer of responsibilities from the Nevada Racing Commission to the Nevada Gaming Control Board. She advised this was built into the Governor's budget and special contract monies were built into the Nevada Gaming Control Board's budget to handle the special testing for the horses, which would accomplish the transfer of the duties of the Nevada Racing Commission into the Nevada Gaming Control Board.

Senator James confirmed there was no further testimony regarding S.B. 475, and closed the hearing.

The hearing was reopened on S.B. 466.

Pro-Life Andy Anderson, Lobbyist, C.H.I.L.D. of God, provided testimony in opposition to S.B. 466. Mr. Anderson asked that it be understood that he was not appearing to judge, condemn, or insult anyone individually who has personal problems, whether those problems be dealing with sexuality, alcohol, drugs, or other defect in human nature. He stated that God created all people for a natural and supernatural destiny and has given us His directions, guidance and the life of his only son, Jesus Christ to help us fulfill that destiny. He stated human laws which deny or defy the laws of God, and are anti-life and anti-human, are null and void and cannot demand honest and just obedience from decent citizens. He stated laws are not eliminated against drunk driving, rape, burglary, and others, simply because people still do these things. The laws do, however, do help to deter most offenders out of fear of the consequences. He stated there is no such thing as drunk driver rights, rape rights or burglar rights. All people have rights as human beings, not because of faulty qualities possessed, but in spite of those qualities. He stated, therefore, to make an evil act legal is to give it permission and approval and to continue without any restraint whatsoever. He stated his wife died in 1984, and at times he is very lonely. However, this does not give him the right to make time with his best friend's wife when he is out of town, because legally his friend could sue his wife for adultery, which would be a crime, and grounds for divorce. He stated, therefore, even though adultery is not a crime in the law books, it is still grounds for divorce. He referred to a tape which he provided to the committee, which he stated tells why these problems exist. He showed the committee a book on AIDS, and stated the book shows the result of the private lovemaking referred to in the law at issue. He stated, therefore, there is no such thing as a private affair, and what is done by homosexuals does affect the rest of the public. He stated doing away with this law would be like telling drunk drivers to drink all they want to in their homes, but not to get into an automobile, because at that point the private act becomes a deadly minister of the people.

Joe Dahl, Member of the Public, testified in opposition to S.B. 466. Mr. Dahl advised he is a paid lobbyist, but has not been asked to lobby regarding this issue. He stated that where he comes from, across the state in the cow counties, the feeling is that people should preserve what are becoming old fashioned values. He advised that when he goes back amongst his people and if S.B. 466 becomes law, those people will ask him why he

did not say anything. He stated the perception at the other side of the state is that there is a bill in the legislature which will repeal the ban on homosexuality. He stated he understands that there may be support for the bill because of the disease issue. However, the perception is that homosexuality is wrong. He recalled that this has been called a civil rights issue and a health issue, but the really important issue is that it is an issue of right and wrong. He stated many people who feel this way do not say so, because it is unfashionable. Homosexuality is accepted on television, and among the friends of those practicing this behavior. He stated, however, homosexuality is a very small community. People do not say anything about it because they will be considered discriminatory, homophobic, or bigoted. He stated that if he were a political consultant managing a re-election campaign for a legislator, he would advise that legislator to make a sane, stable, strong stand against homosexuality. He would encourage that legislator to make strong stands on moral issues. He stated he is certain the legislator would be surprised at the support this would generate. He suggested that when legislators go back to their constituents, these kinds of issues are going to require explanations. He asked the committee to remember the saying "men need to be reminded more than they need to be taught." He wanted to remind the committee that this issue is one of right and wrong, and to remember that in history, it has always been wrong, and it always will be. He stated that if the law against this behavior is repealed, the behavior will still be wrong.

Harry Johnson, Member of the Public, provided testimony in opposition to S.B. 466. He stated there is more to the issue at hand than simply government invading the bedroom. He stated the sodomy laws are needed to stop the seducing and recruiting of young boys for homosexual purposes. He stated the laws are needed to prevent teaching young children graphic, homosexual and lesbian practices in the public schools, as has occurred in New York state. He stated the laws are needed to stop homosexuals from taking over public restrooms for their disgusting activities, as has happened in many areas, and as happened in Carson City a short time ago. He stated the law should be strengthened to identify and trace AIDS carriers to protect the public from the spread of the disease and contamination of blood supplies.

Lucille K. Lusk, Lobbyist, Nevada Coalition of Concerned Citizens, testified in opposition to S.B. 466. She stated this issue is divisive, and strong opinions exist on both sides. She stated that it may be that the issue of homosexuality and whether it will be legal and encouraged, is the defining issue of our time. She stated this may determine what our society

will become in the long term, in matters such as the teaching of values, foster parenting and adopting children. She stated the issue may also determine what children will be taught in the compulsory education environment of the public school classroom. She stated her major concern is the impact of S.B. 466 on children and the efforts in the public schools to impose homosexual values. She referred to an earlier statement that perhaps these other issues should be addressed when they arise. She advised that those issues are arising now. She stated in 1990, in the Clark County schools, a program called Project 10 nearly slipped into the school curriculum. She explained Project 10 is a homosexual advocacy program. She stated review of the material makes clear that it contains aspects of recruitment. She advised this program was stopped only by the existence of the law in question. It was pointed out to public school officials that if they proceeded with the program they would be advocating acts which were a crime. Ms. Lusk added that it is also a crime for schools to advocate criminal acts. She advised this was the only way Project 10 was stopped. She submitted to the committee a copy of an article regarding Project 10. A copy of this article is attached as Exhibit P. She stated the article is not an advocacy nor opposition to Project 10. She advised the article quotes individuals who have had experience with the project. She stated the article points out that parental consent was not obtained for any of the students who participated in the project. She advised the article contains excerpts from the curriculum, which are very graphic, and more obscene than what is found in the majority of "R" rated movies. She stated, even with these considerations, the project is designed for children. She advised the project originated in the Los Angeles unified school district, and has spread to other places. She stated some sexually graphic accounts included in the program describe the homosexual acts between minors and adults. She stated she did not believe the committee would let her get by with putting this on the record, and yet this is for children and was in the process of being used in a school district in Nevada. She advised arguments in the article would apply not only to Project 10, but also to New York's rainbow curriculum and a variety of other things. She stated she also has with her material she obtained which was distributed in public schools in Washington state by the militant homosexual group Actup. She stated that material is far more offensive even than Project 10, and she would not impose it on the committee and certainly would not find it acceptable to be imposed on children in the public schools. She stated if there is any doubt in the minds of the committee members as to what type of material she refers to, she would provide a copy, but would not do so except at the committee's request. She advised the article regarding Project 10 points out that when these programs were implemented without parental

knowledge and consent, many students were pulled into the programs which were included in required classes. She stated many students objected to the programs, yet the programs were imposed upon the students. She advised the article points out some of the concerns of her organization. She quoted from the article:

First, Project 10 is a recruitment program. No balanced program is offered. (Students) religious upbringing is set aside. They are given the gay youth newsletter and other gay affirming material. They are encouraged to go to the Gay and Lesbian Community Services Center.

Second, the parent/child relationship is being violated - flagrantly violated - when you have the state and school district becoming an adversary against parent/child privacy rights and tearing down those rights.

Ms. Lusk stated the committee has heard much about intrusion into privacy rights. She submitted that Project 10 is an intrusion into privacy rights of students and families. She asked the committee how protection might be afforded those whose sincerely held beliefs are violated by this type of program, if in fact the law prohibiting sodomy is overturned. She stated that, if the law is repealed, children will have no protection against the imposition of a theology which advocates homosexuality as being right.

Senator James stated he understood Ms. Lusk's point of view. He added that he would not advocate promoting any type of sexual lifestyle, whether it be homosexual or promoting, through the schools, someone to engage in any sexual activity. He asked why the law must be on the books making something a felony in order to advance that policy. He stated the local communities should decide what the school curriculum will be and who will be involved with the students.

Ms. Lusk asked Senator James if, concurrently with this activity, a law could be written which would assure the protection from the various possible effects spoken of by her and other opponents of S.B. 466, which some members of the committee seem to feel are not connected. She advised her organization, and others, believe these things are very strongly connected. She suggested that if the law is repealed without putting protections in place, the rights of opponents will be trampled, and there will be an imposition of a value system which is a theology. She referred to a previous testifier stating support of the bill because it is consistent with their

beliefs. She stated she understands and appreciates this, however, the imposition of that theology in the public schools is inappropriate. She asked the committee to read carefully the article which she provided, stating it may be helpful. She further requested the committee to determine whether the material is appropriate or desirable for children, and make a stand. She asked that the committee be accountable for the decision they make and the society they choose. She stated if the current law is repealed without concurrent action which is a serious protection, a serious deterioration will result.

Senator James asked what Ms. Lusk would propose the legislature do to address the problem she raised. He stated his belief that this is a separate question from whether to charge gay people with a felony.

Ms. Lusk stated she wished she had the answer, and if she did she would propose one. She stated the only avenue of protection in the past has been the existence of the present law. She stated it is important to realize that the two issues go hand in hand. She recalled earlier testimony regarding the constitutionality of the law. She stated her belief that it is not a constitutional issue, because the supreme court upheld the sodomy law in 1986. She stated that if that law differs from the Nevada law, she would suggest reviewing Georgia's law, which was upheld by the supreme court. She suggested this might provide the answer, and would assure constitutionality.

Senator Titus stated she believed this is a question for the local school boards, and that the protection is there because local school boards are elected. She stated these are not people who make decisions regarding curriculum with no input from the public. If they are imposing certain values to which Ms. Lusk's group is opposed, testimony can be presented to the board. Further, the public can chose not to re-elect the board members in the next election.

Ms. Lusk stated she understands what Senator Titus has suggested. She shared with the committee what happened on the Project 10 issue in the Clark County School District. She stated it was never passed through the school board. It came about as a memorandum and direction from a high-level administrator in connection with the "school break specials" which the teachers and principals were encouraged to utilize. The memorandum advised the teachers to use the material to go with the school break special.

Senator Titus asked for a definition of "school break special."

Ms. Lusk advised this is television programming designed for

schools.

Senator Titus asked if all classes use this programming.

Ms. Lusk advised many classes use them. In the instance she speaks of, a memorandum of direction to use them went to all principals, and the principals were to pass them on to the teachers.

Senator Titus asked if these are public television programs, or tapes which are shown.

Ms. Lusk replied at that particular time, the programs were on the Columbia Broadcasting System (CBS).

Senator Titus asked for confirmation that the offending material was on a network program.

Ms. Lusk replied the CBS program was not offensive. However, with the memorandum came the directive to utilize Project 10 as classroom discussion in connection with having shown the CBS school break special.

Senator Titus asked if teachers are able to decide if they want to use the school break special.

Ms. Lusk stated the particular memorandum distributed encouraged, but did not mandate the teachers to do this.

Senator Titus asked in what grade this occurred.

Ms. Lusk stated in that particular instances, junior high schools and high schools were involved. She stated, however, this is not always the case, and elementary schools are often involved. She stated her point was that there was a teacher who received this directive, and felt it was highly inappropriate, and passed it on to others, one of which was Ms. Lusk. This was the only reason Ms. Lusk's organization even knew what was happening. Ms. Lusk's organization made contact with the administration, bringing to their attention what was being promoted was criminal acts.

Senator Adler stated he found it unbelievable that this activity in public schools could not be stopped without a sodomy law. He stated his belief that if the situation had been brought to the attention of the proper authorities, it would not have happened. He stated he did not see the connection between the incident and the law.

Ms. Lusk replied that the connection was that, in her opinion,

the program would have proceeded if the argument regarding the law had not been made. She stated the memorandum had already been sent, and the encouragement made.

Senator Adler asked if a similar program on, for example, heterosexual activities, could not have been stopped by simply going to the school board and stating the program was inappropriate.

Ms. Lusk stated if the material had been brought through the school board, as in her opinion it should be, there would be a legitimate public issue. She stated Project 10 material is being proposed and fought in other locations. She advised in some cases people opposing it are successful and in other cases they are not. She stated whether opposition would be successful in Nevada, and in particular the Clark County School District, she did not know. She stated she did know that as long as the behavior is a crime, the school districts will not promote the material, as the district charters prohibit promoting illegal acts.

Senator Adler stated his belief that the district would not promote it in any event.

Ms. Lusk reiterated that her organization had seen this occur.

Becky Maddox, Member of the Public, testified in opposition to S.B. 466. Ms. Maddox stated she is a full-time student at University of Nevada, Las Vegas, preparing to enter a masters program. She recalled testimony stating morality cannot be legislated. She stated legislation is done to say what is acceptable and what is not acceptable. She stated it is not acceptable in our society to murder, embezzle, burglarize, kidnap, and other things. Therefore, laws are established so that people know what is and is not allowed. She stated her belief that people who state morality cannot be legislated have not thought it through to the end. She recalled also that the thought has been brought up that those who may have AIDS do not want to be known, due to fear of prosecution. She asked if this same thing would not apply to murderers and drunk drivers who are involved in a hit and run accident. She stated the law still seeks these people out, attempts to determine the details, and prosecutes as the case demands. She stated her belief that this also applies to the issue at hand. She stated there are other sexually transmitted diseases which are treated as diseases, and not a political football, and that AIDS should be treated as a disease as well. She referred to an earlier mention of adultery, and stated at one time there was a law against this activity. She referred to questioning regarding the need for a law against sodomy when there is no law against

adultery. Ms. Maddox stated first the law prohibiting adultery was eliminated, and now if the sodomy law is eliminated, another issue will be brought forth for which the law should be eliminated, stating these eliminated laws as precedence. She stated that soon, important laws which help to prevent problems which have been discussed in this hearing, are written off the books. She related this snowball effect to an erosion of the soil, beginning small, but with the potential of much damage. She stated the opponents of S.B. 466 are attempting to prevent the erosion of the laws which have safeguarded society for many years.

Ms. Maddox stated oftentimes local school boards do not pay attention to the citizens who come to them with legitimate concerns. She advised she has addressed school boards both in Oregon and Nevada, and has helped them understand things which she has learned. She advised these boards have many times stated that what she tells them is an exaggeration and things cannot be as bad as she tells them. She stated opinion does not count very much, only what actually happens. What has happened in other places is also likely to happen in Nevada. Therefore, the opponents of the bill are appealing to the legislature to leave the law in place because it is a protection for the citizens of Nevada and their children. Ms. Maddox quoted a poster in her home which says, "they only are free who dare to go to the end of their thought." She stated this is what the opponents of the bill are asking; to take the things said to their conclusion. She stated that, for any society to exist for very long it must have standards, rules and laws to define what is and is not acceptable. She advised these rules and laws define society's boundaries. She stated often small groups within a particular society become very vocal, seeking to impose their will upon the majority. She stated that, as thoughtful citizens of Nevada, intelligence and humility is needed to learn from the experience of others. She referred to the Roman and Greek civilizations and stated one of the major factors in the downfall of these civilizations was the fact that their laws were ignored or changed so that anything was accepted. She stated if homosexual activity becomes legal, it will directly pave the way for children to be taught the homosexual lifestyle in the public schools. She stated Project 10 is one of the most offensive and graphic homosexual programs. She advised in 1990, this almost became a part of the Clark County School District program, and the only weapon available to stop this is the law which the legislature seeks to change.

Senator James recalled that this argument has been repeated throughout the hearing, stating the snowball effect of eliminating this law. He advised approximately 10 measures coming out of the Senate Committee on Judiciary deal with

strengthening the law on sexual crimes. He advised a stalking law is about to be enacted, which criminalizes that behavior. He advised approximately three laws enhancing enforcement and penalties for crimes against children have been passed including his own bill. He advised a number of laws have been enacted dealing with sexual crimes. Senator James wondered how is it that the legislature can be on a slippery slope. He stated Nevada has one of the toughest statute books regarding crimes, particularly sexual crimes, in the country. He advised numerous people have testified to this fact. He advised he had proposed a bill which would further enhance penalties for crimes committed against children. He stated people opposed this, stating the laws are already too tough. He reiterated his question as to where the legislature is on the slippery slope. He asked how repealing the law making it a felony for someone to be a homosexual in Nevada is the safeguard of the future of everyone where morals are concerned.

Ms. Maddox asked if the legislature is trying to toughen up the laws, why toughen up 10 of them and weaken one. She asked why not leave the law in question as it is.

Senator James asked if Ms. Maddox was saying the law prohibiting sodomy should be enforced. He advised that every witness, even the ones who support the law, had acknowledged that the law is not enforced, and never has been.

Ms. Maddox stated she believed the law is there for protection.

Senator James asked again if Ms. Maddox thought the law should be enforced, and if people should be imprisoned for doing what the law says is prohibited.

Ms. Maddox stated one problem she sees is stiffer penalties keep being added. She sees a problem with this type of approach in that the law simply needs to convict people of crimes if they are guilty. She stated the state does not need more laws, but simply needs to enforce the laws we have. She stated she was not sure, under the law in question, whether people need to be arrested. She stated, however, when highly offensive programs are brought into the school district, the only way to keep them out is by the law currently on the books. She stated if the law remains on the books, if someone brings an accusation, the law is there to be used.

Senator James stated the law in question states this behavior is illegal. He reiterated all of the testimony stating the law is not enforced. He also reiterated testimony saying the law cannot be enforced because people's bedrooms should not be entered. He advised firsthand evidence is not needed to convict

someone of a crime, and in fact very rarely does someone videotape or observe a crime being committed. Witnesses testify that a person committed a crime. He stated if this law was to be enforced, people could submit affidavits to provide probable cause, to allow law enforcement to pursue the crime. Senator James asked, if the law is totally unenforceable, is not enforced and never has been, how does he as a legislator justify voting to keep this statute.

Ms. Maddox stated that just because something has been allowed up to this point, does not mean it is necessarily right to allow it to continue. She stated the law may not be used specifically by law enforcement officials very often, but it is used. She advised it was used to save the Clark County School District from a lot of grief.

Senator James stated that he, as a parent in Clark County involved in the Parent Teachers Association (PTA), would not allow something which he thought was wrong to be taught to his child or anyone else's. He stated that if that occurred he would talk to the school board and tell them he did not think that should be a part of the school curriculum. He stated he did not believe he needed a law saying the behavior is a felony to determine it is wrong.

Ms. Maddox stated that in the 1990 incident there was absolutely no recourse other than the existing law, because the school board would not listen.

Ms. Maddox stated about 25 years ago, when sex education first came into the schools, there was debate regarding the program. She advised a fellow teacher and friend of hers saw nothing wrong with the program, and had an opportunity to testify to that effect. Ms. Maddox advised her friend testified that the children in her class, 3 days after having seen a sex education film, would not settle down, and could not learn. Ms. Maddox asked if this was the effect in the beginning, when sex education began, what would the effect be from programs on homosexuality do to the children.

Senator Titus stated she thought perhaps the law was the most convenient mechanism to stop the Project 10 program, but did not believe it was the only mechanism available. She stated the Project 10 program mentions homosexuality. She believes if the program advocated all of the activities Ms. Maddox described as gross, between people of the opposite sex, where there is no law on the books, the program could still have been stopped from going into the classroom.

Ms. Maddox stated she has tried, from time to time, to stop

things from happening in the school district, and none of these things have worked. She stated she is expressing reality. It would be nice to say the school board listens, but often pressures are brought to bear. She stated some of those pressures are illegal, are not right, they are illegal, and are coercion. She stated, however, these things exist and are used by those who want things such as Project 10 in the schools. She reiterated opponents of S.B. 466 are asking for the legislature's help to leave the only weapon and tool available which has proven effective.

Linwood Tracy, Member of the Public, testified in opposition to S.B. 466. He stated he has raised 13 children and has 12 grandchildren. He advised he had watched the committee and did not wish to be offensive, but wished to make a statement. He stated his belief that the committee had made up its mind due to the expressions seen. He stated this is offensive to the State of Nevada and the people of the state who are in opposition. He stated the committee listened very intently to the testimony in favor of the bill, and then as people came forward without education who had simple means of expressing themselves, the committee seemed to be degrading those people. He stated his belief that this is a detriment to the state and to the process. He stated the testimony of attorneys, nurses and doctors is credible, because of their status. He advised there are a lot of folks in the state of Nevada who have a degree in life, which is hands-on. He stated these people have raised good families and raised them straight, and this is what the bill is all about. He stated it is about right and wrong. He advised that, since it appears necessary to the committee that a witness be educated in order to express opinions, he has four teaching certificates. He stated these certificates are in education and career education. He advised he has been involved in four states in career education, and in the state of Nevada in career education. He stated he was nominated to the state board of education as a career advisor, and has been involved with Truckee Meadows Community College as a career advisor. He stated he is involved in scouting, and in education and family matters for a number of years. He stated this gives him the right to express himself and also that every person in attendance at the meeting has the right to express himself or herself. He stated education does not prove that people are right. Mr. Tracy recalled many questions had been asked by the committee. He stated the committee has a responsibility to the people of Nevada, before any decision is made, to make absolutely sure that the decision is for the benefit of the majority of the citizens of Nevada. He stated his responsibility is to tell the committee what he thinks, how he feels, and why he feels this way. He recalled the committee saying that doctors have testified that the testing of AIDS is

being hindered by the current law. He asked the committee to realize what created AIDS. He asked how many members of the committee had given blood in the past month or two. He stated he gives blood every 2 to 3 months, to donate to children. He does this because there are not enough adults in Nevada that have blood which does not contain the AIDS virus. He stated the reason he does not have the virus is because he has never slept with a homosexual, nor with anyone other than his wife. He advised he has never taught his family anything different. He stated he has been called many times to go and give blood immediately, as there are infants and small children who need blood. He explained the procedure for signing up to donate blood, and questions asked, including had he been in any country infected with AIDS. He stated he had signed many statements when giving blood, averring he had been involved in no homosexual activity. He stated knowledgeable physicians made this decree for him to give blood, and government agencies who have control. He stated this is because these people and entities do not want AIDS to be given to other people. He stated that in this hearing, no one from the medical community has stated that AIDS is homosexual and heterosexual. He stated the reason for this is immorality. He stated any time a bill is repealed which opens up sodomy of any sort, truth has been made wrong. He reiterated S.B. 466 is about right and wrong, and that the committee has a responsibility to search out what homosexuality does. Mr. Tracy related his experience in traveling and seeing the results of this behavior throughout the world. He challenged the committee to search out the pro and con, and stated his belief that if this is done, the members of the committee will understand how he has raised 13 straight children. He stated the only safe way to keep AIDS out of our homes and our nation is to remain straight.

Senator James confirmed there was no one present at the hearing who had not had the opportunity to address the committee and advised he was going to close the hearing on S.B. 466.

Ms. Sheehan advised Senator James there were several people who wished to present rebuttal to the testimony of opponents. She advised there had been several issues which had been misrepresented and that misconceptions had been generated by the committee. She stated, in all fairness, these things should be addressed.

Senator James stated he appreciated this. However, if he allowed rebuttal, the hearing could go on indefinitely. He stated his belief that a fair amount of time had been allowed each side. He advised he would open the bill for motion, and that extensive testimony had been heard. He stated he would invite any member of the committee to make a statement, and then

he would accept a motion.

Senator Titus stated she had made notes as she had heard the testimony. She stated she would summarize her impressions regarding the existing law. She stated the existing law is not being enforced, the law is impossible to enforce, there are at least six laws existing to protect against sex crimes, public display and so forth. She recalled testimony of the medical community that the current law could be a detriment to AIDS testing, identification and treatment programs, and therefore is a public health issue. She stated it is unlikely that the current law is unconstitutional, and at the very least is blatantly discriminatory. She stated the law has been on the books since 1977 and apparently has not served as a roadblock against growth of the gay community in Nevada, and a main argument by opponents for keeping the law on the books was to have the law serve as a roadblock or some sort of protection in the future. Senator Titus stated her feeling is that the committee had heard all the testimony needed on both sides. She was aware that amendments had been suggested, but rather than hold the bill any longer, she would move that the committee send the bill onto the floor without a recommendation and let the amendments be considered there.

SENATOR TITUS MOVED THAT S.B. 466 BE PASSED FROM THE COMMITTEE WITHOUT RECOMMENDATION.

SENATOR SHAFFER SECONDED THE MOTION.

Senator James stated he had listened to the testimony as well. He advised he believes powerful arguments had been given on both sides. He stated he did not believe the argument against the bill really goes to the law. He explained the law is unenforced, and essentially unenforceable. He stated the law enforcement community would have to be greatly increased if they sought to prosecute all the people coming within the purview of this law. He stated many people would be incarcerated who are otherwise law abiding citizens. He stated, therefore the law really is unenforced and unenforceable. He stated the law deals with something he believes is an issue of freedom, that is, how far government can extend into people's private lives where there really are no victims of any crime. He stated the crime is described in the statute as being between consenting adults. Therefore, by definition there would be two people who have consented to something, and this extends government far too far into people's private lives. He referred to the arguments on the other side of the issue with the question whether or not something is being done here which will open a floodgate or put Nevada on a slippery slope into real erosions of moral values in society. He stated his belief that, as valid as it might be to

say that society should not have teaching of different lifestyles or explicit sex in schools, he did not think that this justifies retaining a law which makes it a felony to engage in this behavior. He stated there is much conduct that should not be part of a curriculum in the schools. However, laws cannot be made against every one of these things, and therefore, neither can a law against those things mentioned in this case be justified. He stated he believes the overriding concern is that of health care. He referred to statistics brought before the committee, and the letter from the district health department in support of S.B. 466, stating that these people feel, based upon their experience with AIDS, that the law is an impediment to people coming forward to be tested and receiving treatment. He stated that for that reason, he would vote in favor of repealing the law. He stated his belief that the other issues ought to be dealt with separately, and should not be dealt with in a criminal law. He stated the school issue should be addressed by the local school boards, and the issue of dealing with moral issues in our society should be dealt with in whatever form they properly arise. He stated his belief that government cannot tell people what they can do in the privacy of their bedrooms.

Senator Adler stated he had listened to all of the testimony presented, and believes the strongest arguments on the proponents side go towards the enforceability of the private actions. He stated his belief that there is probably no reason to not enforce the law as to public acts by both homosexuals and heterosexuals. He stated his belief that if a law such as this exists, it must be equally enforced for public acts.

Senator Shaffer stated that his vote in the committee will not affect his position on the floor, and that he would be proposing an amendment to the bill.

Senator McGinness agreed with Senator Shaffer. He stated he was not prepared to support a motion at this time, but the motion without recommendation can be done to get the bill to the floor, and the amendments can be dealt with there.

Senator James reviewed the motion on the floor.

THE MOTION CARRIED. (SENATOR JACOBSEN VOTED NO.)

Senator James asked that it be noted in the body of the minutes that all committee members were present for the vote.

* * * * *

Senator James confirmed there was no further business to come before the committee, and adjourned the meeting at 7:00 p.m.

DOCUMENTS FOR THE RECORD

- A. Correspondence from Nevada Attorneys for Criminal Justice
- B. Affidavit of Rabbi Mel Hecht
- C. Affidavit of Professor John Boswell
- D. Affidavit of Bishop Thomas Gumbleton
- E. Affidavit of Rev. H. Darrell Lance, Ph.D.
- F. Affidavit of Maralee Mayberry and Barbara G. Brents
- G. Affidavit of Donald P. Gagliardi, Esq.
- H. Affidavit of David McWhirter, M.D.
- I. Affidavit of Jerry Cade, M.D.
- J. Affidavit of Melvin I. Pohl, M.D.
- K. Affidavit of Patrick S. Harper, D.D.S.
- L. Affidavit of Martin Raff, M.D., J.D.

TESTIMONY OF SENATE BILL 466

by Myra A. Sheehan
Attorney and Counselor at Law
May 24, 1993

Mr. Chairman and members of the committee, my name is Myra Sheehan and I am an attorney. I am licensed to practice law in Nevada and in California. Until January of this year I had a solo practice which was limited to domestic law. The majority of my practice was the representation of low income, battered women. I have spent numerous hours volunteering my time and was recognized in 1992 by the Volunteer Lawyers of Washoe County for outstanding participation providing pro bono legal representation to the poor in Washoe County. I am a true advocate for the under-represented. As I stand before you today I represent no identifiable interest group. However, I have chosen to testify before you on behalf of those people who are fearful to speak out against a law that has silenced them.

NRS 201.190 Crimes against nature, is a law that is so oppressive and misused in our state that it denies people their rightful day in court. It has torn parents and children apart; it has ruined lives and held people hostage. As a family law practitioner, I have had first hand experience with this law and the chilling effect that it has on families and children. I have had clients come to me in fear that they may lose custody of their children or may lose the right to have any meaningful relationship with their children, because a vengeful spouse or ex-partner has threaten them with this law. Many of those people have compromised

their right to their day in court for fear that this oppressive law will be used against them. There have been instances where people have compromised their rights to visitation or their freedom of association so that they could have some kind of relationship with their own children. I have seen this law used to intimidate people into making decisions that may very well have not been in the best interest of their children, and I have seen this law used to hurt and humiliate good citizens of this state.

Homophobia, like racism and sexism, pervades our society. It is not beyond some people in divorce actions, and particularly custody cases, to threaten an ex-partner or spouse with exposing their sexual orientation or dangling this law over their heads to get what they want or to control that person even after the separation.

Despite the historical views of homosexuality, it is no longer viewed by the mental health profession as a disorder or disease. Scientific research is finally being done to show that homosexuality may very well not be a simple matter of deliberate personal election, but that it may be a part of the very fiber of an individual's personality.

This statute is directed at "consenting adults of the same sex," therefore targeting homosexuals. If you are going to have a law that selectively applies to a particular group of people, then it must be supported by a neutral and legitimate interest. What

neutral and legitimate interest could there possibly be to legislate against an intimate private relationship between two consenting adults of the same sex.

The law as written is unenforceable. It does not make homosexuality illegal. In fact this state has a law which will punish someone who commits certain unlawful acts against a person because of their sexual orientation. (See NRS 207.185.) However, NRS 201.190 makes specific acts between two consenting same sex adults in private illegal. Because the law is virtually unenforceable, it is the spectrum of the threat that is so devastating in domestic cases. The threat is easily made and difficult to disprove or counter.

This law has been used against people who are not even gay or lesbian. I had a client who was a respected member of this community come to me in terror because she had shared a particular homosexual experience with her then spouse who turned around and threatened to use it against her if she pursued getting a protection order against him. Her fear was so great she did not get the protection order, and he continued to threaten and beat her. She gave up her home and most of the community possessions. She compromised away her children's right to child support from this man, so he would not pursue a custody action and she still lives in fear of him.

Society has every right in encouraging its citizens to follow

particular traditions in expressing affection for one another in public. The states may and do prohibit an individual from imposing his will on another, and in particular on a minor, to satisfy his own selfish interest. But, the states interest is not restricted to homosexual activity but also concerns heterosexual activity when it is unwanted, in public or is committed against a minor.

We in Nevada have a unique history. Nevada has always respected the rights of individuals. Some call it a frontier mentality, which has allowed us over the years not to allow other states or individuals to dictate their morality to us. You have before you Senate Bill 466. This bill accomplishes the goals of making it unlawful to commit certain acts against a minor, protects prisoners from those who would engage in acts which could spread the AIDS virus, and repeals a law which is neither legally sound nor enforceable as written.

I encourage you to support Senate bill 466.

PROPOSED AMENDMENT TO SENATE BILL NO. 466

Amend section 1, page 1, by deleting lines 3 and 4 and inserting:
"in [acts which would constitute the infamous crime against nature if performed by an adult:] *anal intercourse, cunnilingus or fellatio*:".

Amend section 1, page 2, by deleting lines 1 through 4 and inserting:
"3. *Any sexual penetration, however slight, is sufficient to complete the acts prohibited by subsection 1.*"

Amend sec. 2, page 2, by deleting lines 30 and 31 and inserting:
"the virus, such as battery, [the infamous crime against nature,] *anal intercourse, cunnilingus, fellatio, sexual intercourse [in its ordinary meaning] or illegal intravenous injection of a controlled*".

Amend sec. 2, page 2, by deleting lines 41 and 42 and inserting:
"6. As used in this section, "incident" means any occurrence, of a kind specified by regulation of".

Amend sec. 2, page 2, by deleting lines 45 and 46.

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SAMUEL S. LIONEL
GRANT SAWYER
L. R. COLLINS
(1923-1987)
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KRISTIN BURT McMILLAN

OF COUNSEL
ROBERT M. BUCKALEW

May 21, 1993

WRITER'S DIRECT DIAL NUMBER:

STATE SENATE JUDICIARY COMMITTEE
c/o Hon. Mark James, Chairman

I am familiar with SB466. Please be advised that I fully support the bill as modified. It appears to me that the facilitation, care and treatment of HIV patients is alone sufficient reason for its passage.

Sincerely,



GRANT SAWYER

GS/rc

Testimony for SB 466

Senator James, Senator Titus, Members of the Senate Judiciary Committee...

Thank you for allowing me the privilege of speaking before you today. I find it unusual that the faithful practice of medicine results in my testifying before a state legislative committee; but, there are times when the law impacts our ability to practice good medicine. SB 466 is indicative of one of those occasions.

I sent you each a copy of the Statewide AIDS Advisory Task Force AIDS Anti-Discrimination Policy. I included a letter explaining why we felt it important to repeal the "crimes against nature" statute as part of a statewide effort to address the AIDS crisis.

To summarize, we felt that we needed to create a climate in Nevada that would facilitate the testing, reporting, counseling and treating of HIV-infected individuals before they inadvertently continued to spread this disease.

Furthermore, we felt that those individuals who were HIV-infected should be afforded early medical treatment and allowed to live their lives in a world of respect, dignity, support and compassion.

We see no value-- and much harm -- in a statute that criminalizes the private sexual behavior of consenting adults.

I have been taking care of People with AIDS for almost eight years.

It has been my privilege to do so. My patients have given me much more than I could ever give them.

My patients have become my friends, my inspiration, my hope and my teachers.

I have seen bravery in 24 year old men and women confronted with their mortality that I am incapable of emulating. I have watched parents, after losing their own child, continue to come to the hospital and become the parents for another man or woman who had none--or whose parents rejected him or her. And I have observed patients sick with AIDS, take care of their still sicker friends -- making sure that they receive the medical attention they need as well as the concern and love they deserve.

I think there is much we all could learn from People with AIDS -- much about courage, much about faith, much about hope -- and even more about love.

Repealing this statute is not really about one group and its behavior -- rather it is a statement about how we as a state -- and as a people -- are going to respond to a potentially fatal epidemic. In a larger sense, it is a conviction about how we as a state -- and as a people -- choose to interact with our citizens who may see life differently.

I moved to Nevada in 1981 to become the first physician at Vegas Verdes Clinic, a Federally-funded Public Health Service facility.

Senator Shaffer served on the Board of Directors for that clinic.

I hated moving; but, as the years have passed, I can think of no other place I would rather live. Nevada is home. And one of the things I like about Nevada, is the respect afforded the individual and his or her privacy. I know of few other places where a person's intrinsic worth and dignity are so highly regarded.

Senate Bill 466 is simply a recognition of that individual's ability to make his or her own decisions about the private aspects of his or her life. It is an affirmation of that individual's independence, self-reliance and value.

I'd like to close with a quote from Dr. C. Everett Koop who served as Surgeon General during the early years of the AIDS epidemic. Dr. Koop remarked, "At the beginning of the AIDS epidemic, many Americans had little sympathy for people with AIDS. The feeling was that somehow people from certain groups 'deserved' their illness. Let us put those feelings behind us. We are fighting a disease, not people. Those who are already afflicted are sick people and need our care as do all sick patients. The country must face this epidemic as a unified society. We must prevent the spread of AIDS while at the same time preserving our humanity and intimacy."

We can assist the process by passing SB 466, and I am asking for your support.

SUBMITTED BY JERRY CADE, M.D

May 24, 1993

Mark James, Chairman
Committee on Judiciary

Re: Senate Bill 466 - Repealing prohibition against sexual
conduct between consenting adults
of the same sex.

I come before you today, not only as a member and representative
of the international organization, Parents and Friends of
Lesbians and Gays, but as a mother.

I have been blessed with two outstanding daughters. One is
a landscape architect, the other is a commercial airline pilot.

Both were raised in the same environment by loving parents.

They are both avid skiers (one is an instructor), cyclists,
hikers and campers.

They are both consumers and taxpayers.

They are both loving and sensual human beings.

One happens to be a lesbian, one happens to be heterosexual.
It doesn't matter to me.

What matters to me is the oppression, bigotry and hatred directed
at one while the other is afforded privileges the other is
not.

Unless you know me personally, you cannot tell which daughter
is which. I can tell you this, both are popular in their own
and each others communities. They are not accepted or rejected
because of their sexual orientations.

Their sexuality was not a choice. They did not choose their
orientation any more than they chose their hair, skin or eye
color.

As my lesbian daughter would ask you, "Who would choose to
be something so many fear and hate?"

I do not want to get into the religious issue as I would be
just as guilty in judging others as they have judged. I do,
however, feel there is a very dangerous element infiltrating
our governments and they are dictating their beliefs, what
they perceive to be right or wrong, and getting laws passed

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in the name of "morality."

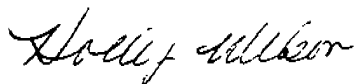
I vehemently oppose the Nevada Sodomy Law (or any Sodomy Law) as discriminatory and a violation of equal rights under the Constitution of the United States.

The government has no place in bedroom. It is already unwelcome in many other areas of our lives. Let's keep one area, a very intimate and private area of our lives, free from Big Brother.

This state has legalized prostitution and I don't even want to begin to know what goes on behind those bedroom doors, much less anyone else's, but whatever it is it's legal. How ludicrous.

This law is just taking up time and space in the Nevada statutes and as a taxpaying citizen I resent my money being wasted on laws denying human and equal rights to its citizens.

Signed:



Holly Wilson
1685 Whitewood Drive
Sparks, Nevada 89434

May 24, 1993

To: Members of the Judiciary Committee

From: Robert D. Smith

Re: Senate Bill 466

I was born in 1960 in this capital city of Nevada. Our first family home was at 4th and Stewart, where the legislative parking garage now stands. I attended Fremont grade school through Carson High School.

I am a proud native Nevadan and I am proud of the history of this state. Nevada has always been a progressive state, honoring the rights of the individuals. Less government in the lives of the people of Nevada has helped make this state the best state in the nation to call home. Less taxation and less regulation has been the cornerstone of the growth of our state.

That is why I am asking that you support Senate Bill 466. This issue is controversial and politically unpopular. However, if one considers- that less government is better; that the right to privacy is paramount; and that laws exist that are not enforceable- then Senate Bill 466 needs your support.

Although I currently reside in Las Vegas, Carson City will always be my home. My family knows of my wishes to be interned here next to my brother. He and I often took bike rides down Fifth street to the river. To think that a law exists that could return me to Carson City as a felon to the Maximum Security Prison because my right to privacy is disregarded is fearful to me. As a child, I played past the prison gates. As an adult, the State of Nevada can place me behind those gates. Please pass Senate Bill 466.

Thank you for your consideration,



Robert D. Smith
Las Vegas, Nevada

May 24, 1993

To: Members of the Judiciary Committee

From: Lee Plotkin

Re: Senate Bill 466

My family moved to Las Vegas in 1968. My parents opened a mom and pop hardware store which is the family business. I attended Vegas Verdes Elementary, Hyde Park Junior, and Clark High schools.

I am now a licensed real estate agent and a member of the Greater Las Vegas Association of Realtors. As a successful agent I advertise in a number of publications primarily targeted to the California market and the gay community both of which tend to have higher than average disposable incomes. When I am contacted by a gay client I am invariably asked about the political climate for gays in the state of Nevada. I am compelled to say that if they move to Nevada, what they do in the privacy of the own home is a felony punishable by imprisonment. Most are shocked given the impression of Nevada as a live and let live state. This law, by its mere presence on the books is deterring many looking to relocate and purchase a home. Some are continuing careers, many are retiring bringing their pensions and retirement income with them.

If this law is not being used by prosecutors as the states figures show, I urge you to cast your vote to repeal it. Let the great state of Nevada show that is is truly a state that respects the right to privacy for all people. I ask you to vote YES on S.B. 466.

Sincerely,



Lee S. Plotkin
2216 San Miguel Ave.
N. Las Vegas, NV 89030
646-0123

062

THE REVEREND ROY A. COLE
3300 SKYLINE BOULEVARD, SUITE 317 • RENO, NEVADA 89509

May 22, 1993

Senator Mark James
Senate Judiciary Committee
Nevada State Senate
Carson City, Nevada

Dear Senator James;

I would like to add my voice to support Senate Bill 466. I believe it is imperative that the citizens of our state are freed from the discrimination and invasion of privacy that has existed for far too long. As a Christian minister I know there are many people who would seek to condemn same-sex relationships based on their understanding of Biblical teaching. Yet many Christian leaders have publicly declared that God does not condemn the homosexual. The Bible teaches us that God affirms all relationships that are based on love, respect and justice. What God clearly condemns is discrimination, oppression and injustice. The current reading of the "infamous crimes against nature" law promotes oppression, discrimination and injustice within the state of Nevada. It is my prayer that we may put an end to such violence in our state for it has no place among a people who founders sought autonomy, independence and the rights of privacy.

I ask for your support and the support of the Nevada State Senate to end this injustice and allow all our citizens the freedom of self-determination.

Sincerely yours,



REV. ROY A. COLE
The Reverend Roy A. Cole

— EXHIBIT K —

063

GOOD AFTERNOON. I'D LIKE TO THANK YOU FOR THE OPPORTUNITY TO ADDRESS YOU ON THIS MOST IMPORTANT ISSUE. MY NAME IS JOHN CARROLL AND I'M A RESIDENT OF RENO.

THOUGH I'M A NATIVE OF CALIFORNIA, I'VE LIVED MOST OF MY 32-YEARS IN NEVADA, AND EVEN THOUGH I'VE HAD OPPORTUNITIES OVER THE PAST YEARS TO MOVE AWAY, I'VE CHOSEN TO STAY HERE IN THE SILVER STATE.

THERE ARE MANY REASONS FOR THAT. CHIEF AMONG THEM IS WHAT YOU MIGHT CALL THE SPIRIT OF PERSONAL LIBERTY AND FREEDOM THAT HAS ALWAYS CHARACTERIZED THE PEOPLE OF THIS GREAT STATE.

UNFORTUNATELY, THIS PROUD SPIRIT IS CURRENTLY TARNISHED BY A LAW IN OUR OWN NEVADA REVISED STATUTES. THIS LAW IS ABSOLUTELY CONTRARY TO THE NEVADA SPIRIT OF NON-GOVERNMENTAL INTERFERENCE IN OUR PRIVATE LIVES. THIS LAW SEEKS TO BRING GOVERNMENT INTO THE BEDROOM... IT FLIES IN THE FACE OF THE PERSONAL PRIVACY PROVIDED AMERICANS IN THE CONSTITUTION... AND IT IS UNENFORCEABLE.

AS YOU KNOW, THE REPEAL THAT IS BEFORE YOU NOW, DEALS WITH CONSENTING ADULTS ONLY. PUNISHMENT FOR ANY SEXUAL CRIMES COMMITTED AGAINST CHILDREN IS RETAINED IN THIS LEGISLATION AS INDEED IT SHOULD BE.

AS YOU MEMBERS OF THE NEVADA LEGISLATURE KNOW ALL TOO WELL, THERE IS SO MUCH BEING ASKED OF GOVERNMENT NOWADAYS, MUCH MORE THAN IT CAN AFFORD TO DO. SO, ASIDE FROM THE PRIMARY ARGUMENT OF WHETHER THE GOVERNMENT SHOULD BE LEGISLATING PEOPLE'S PERSONAL BEHAVIOR, CAN WE REALLY AFFORD FOR OUR GOVERNMENT TO BE THE ARBITER OF PRIVATE ACTIVITY BETWEEN CONSENTING ADULTS?

THE ANSWER IS A RESOUNDING NO! GOVERNMENT CAN'T, NOR SHOULD IT BE IN THE BUSINESS OF CODIFYING ONE'S SEXUALITY AND HOW IT IS PRIVATELY LIVED OUT.

SO, MEMBERS OF THE JUDICIARY COMMITTEE, I ASK YOU TO PASS THIS BILL ON TO THE FULL SENATE. LET THE PRINCIPLE OF PERSONAL LIBERTY AND RESPONSIBILITY CARRY THE DAY. LET THE BELOVED WORDS, "HOME MEANS NEVADA" RING TRUE FOR ALL OF IT'S CITIZENS.

THANK YOU. I'D BE GLAD TO ANSWER ANY QUESTIONS.

NEVADANS FOR ACCOUNTABLE GOVERNMENT
3680 Grant Drive, Suite J
Reno, Nevada 89509
(702) 827-4200

May 24, 1993
Senate Judiciary Committee
Nevada State Legislature
RE: S.B. 466

Good afternoon. My name is Bob Fulkerson. I am representing Nevadans for Accountable Government, a new statewide organization dedicated to building a broadbased lobbying and electoral network of progressive organizations and individuals. We urge this committee to recommend passage of Senate Bill 466.

Nevada's current statute barring sexual acts between consenting adults of the same sex behind closed doors is archaic and discriminatory. Privacy--or freedom from unauthorized intrusion--is a fundamental human right. The sodomy statute is a grave infringement upon this right. If respect for individual liberty and privacy are hallmarks of Americanism, then Nevada's sodomy law can only be described as un-American. The statute is a constant threat and reminder to me and tens of thousands of others who live here that the State can, at any time, lock us up for years. And for what? For doing nothing so dissimilar than what the heterosexual majority does with impunity.

The sodomy law makes me a criminal in the eyes of the state. I share custody with my ex-wife of our 6-year old daughter. Because I routinely break the state sodomy law, a Nevada judge could legally extinguish my parental rights. I'm greatly angered and shamed to live in a state whose law dictates that I'm an outlaw and unfit to be a father.

In closing, I strongly urge you to pass this bill, and commend Senator Lori Brown and other supporters for their dedication to and respect for fundamental human liberties. Thank you for this opportunity to speak.

Homosexual activist promises to seduce sons in schools, theaters, military

By Michael Swift, 'Gay Revolutionary'
Reprinted from *The Congressional Record*
(p. E3081, July 27, 1987)

Editor's Note: This article contains material that will be offensive to many. However, we felt that the information herein is critical to the understanding of the radical homosexual movement. The author is called a "gay revolutionary" in Gay Community News where the article first appeared.

This essay is outrageous, madness, a tragic, cruel fantasy, an eruption of inner rage, on how the oppressed desperately dream of being the oppressor.

We shall sodomize your sons, emblems of your feeble masculinity, of your shallow dreams and vulgar lies. We shall seduce them in your schools, in your dormitories, in your gymnasiums, in your locker rooms, in your sports arenas, in your seminaries, in your youth groups, in your movie theater bathrooms, in your army bunkhouses, in your truck stops, in your all-male clubs, in your houses of Congress, wherever men are with men

The family unit — spawning ground of lies, betrayals, mediocrity, hypocrisy and violence — will be abolished.

ether. Your sons shall become our minions and do our bidding. They will be recast in our image. They will come to crave and adore us.

Women, you cry for freedom. You say you no longer are satisfied with men; they make you unhappy. We, connoisseurs of the masculine face, the masculine physique, shall take your men from you then. We will amuse them; we will instruct them; we will embrace them when they weep. Women, you say you wish to live with each other instead of with men. Then go and be with each other. We shall give your men pleasures they have never known because we are foremost men too and only one man knows how to truly please another man; only one man can understand with depth and feeling the mind and body of another man.

All laws banning homosexual activity will be revoked. Instead, legislation shall be passed which engenders love between men.

All homosexuals must stand together as brothers; we must be united artistically, philosophically, socially, politically and financially. We will triumph only when we present a common face to the vicious heterosexual enemy.

If you dare to cry faggot, fairy, queer, at us, we will stab you in your cowardly hearts and defile your dead, puny bodies.

We shall write poems of the love between men; we shall stage plays in which man openly caresses man; we shall make films about the love between heroic men which will replace the cheap, superficial, sentimental, insipid, juvenile, heterosexual infatuations presently dominating your cinema screens. We shall sculpt statues of beautiful young men, of bold athletes which will be placed in your parks, your squares, your plazas. The museums of the world will be filled only with paintings of graceful, naked

Our writers and artists will make love between men fashionable and *de rigueur*, and we will succeed because we are adept at setting styles. We will eliminate heterosexual liaisons through usage of the devices of wit and ridicule, devices which we are skilled in

employing.

We will unmask the powerful homosexuals who masquerade as heterosexuals. You will be shocked and frightened when you find that your presidents and their sons, your industrialists, your senators, your mayors, your generals, your athletes, your film stars, your television personalities, your civic leaders, your priests are not the safe, familiar, bourgeois, heterosexual figures you assumed them to be. We are everywhere; we have infiltrated your ranks. Be careful when you speak of homosexuals because we are always among you; we may be sitting across the desk from you; we may be sleeping in the same bed with you.

There will be no compromises. We are not middle-class weaklings. Highly intelligent, we are the natural aristocrats of the human race, and steely-minded aristocrats never settle for less. Those who oppose us will be exiled.

We shall raise vast, private armies, as Mishima did, to defeat you. We shall conquer the world because warriors inspired by and banded together by homosexual love and honor are invincible as were the ancient Greek soldiers.

The family unit—spawning ground of lies, betrayals, mediocrity, hypocrisy and violence—will be abolished. The family unit, which only dampens imagination and curbs free will, must be eliminated. Perfect boys will be conceived and grown in the genetic laboratory. They will be bonded together in communal setting, under the control and instruction of homosexual savants.

All churches who condemn us will be closed. Our only gods are handsome young men. We adhere to a cult of beauty, moral and esthetic. All that is ugly and vulgar and banal will be

All churches who condemn us will be closed. Our only gods are handsome young men.

annihilated. Since we are alienated from middle-class heterosexual conventions, we are free to live our lives according to the dictates of the pure imagination. For us too much is not enough.

The exquisite society to emerge will be governed by an elite comprised of gay poets. One of the major requirements for a position of power in the new society of homoeroticism will be indulgence in the Greek passion. Any man contaminated with heterosexual lust will be automatically barred from a position of influence. All males who insist on remaining stupidly heterosexual will be tried in homosexual courts of justice and will become invisible men.

We shall rewrite history, history filled and debased with your heterosexual lies and distortions. We shall portray the homosexuality of the great leaders and thinkers who have shaped the world. We will demonstrate that homosexuality and intelligence and imagination are inextricably linked, and that homosexuality is a requirement for true nobility, true beauty in a man.

We shall be victorious because we are fueled with the ferocious bitterness of the oppressed who have been forced to play seemingly bit parts in your dumb, heterosexual shows throughout the ages. We too are capable of firing guns and manning the barricades of the ultimate revolution.

Tremble, hetero swine, when we appear before you without our masks.

Court denies parental rights to transsexual

By Brendan Riley/AP

CARSON CITY — The Nevada Supreme Court refused 3-2 Thursday to restore parental rights to a transsexual who underwent a sex change operation and switched names from Tim to Suzanne Daly.

The majority opinion, written by Justice Tom Steffen, held that termination of parental rights is best because of the risk of "serious maladjustment, mental or emotional injury" to the 12-year-old daughter.

Steffen said that in addition to the risk of harm, the child also told the lower court judge she didn't want to see her father. According to the lawyer for the child's mother, the girl viewed Suzanne Daly as "weird and gross."

Future prospects for emotional family stability also are dimmed by Suzanne's indication the child should know her friends, who include lesbians, homosexuals and transsexuals, Steffen wrote.

The opinion states that the child can decide for herself when she's an adult whether to see her father again. In the meantime, "it can be said that Suzanne, in a very real sense, has terminated her own parental rights as a father.

"It was strictly Tim Daly's choice to discard his fatherhood and assume the role of a female who could never be either mother or sister to his daughter."

The minority opinion, by Justice Al Gunderson, said the majority ruling seems inappropriate because Suzanne Daly volunteered to forego visits for now in order to preserve the legal status of a parent.

While the child no longer has a father figure, "she still has a second parent who desires to contribute to her financial support, and who might someday in the future provide her with needed comfort, affection and help," Gunderson said.

Suzanne Daly lives in the Berkeley, Calif., area while the mother, Nan Daly, and her daughter live in the Reno area. The Dalys, married for 10 years, separated in 1979 and were divorced in 1980. The sex change surgery occurred in 1983.

The case was argued in January 1985 before the Nevada Supreme Court.

C-J Aug 28 - 1986

Adoption agencies blamed in death

SAN FRANCISCO (AP) — The actions of public and private adoption agencies contributed directly to the death of a 14-month-old boy whom police say was beaten to death by a man and his transvestite lover posing as husband and wife, a state agency reported.

Nathan Moncrieff was born brain-damaged to a heroin addicted-mother in San Francisco. His case was being supervised by the city's Social Services Department at the time of his June 13 death in Oakland. The child had been placed with the two men by an Oakland adoption agency.

Both the city's Social Services

Department and Black Adoption Placement and Research Center contributed directly to the child's death, concluded the report released by Loren Suter, deputy director of California's Social Services Department's adult and family services.

The adoption center certified the home of Alvin Woodard and Gregory Thomas Rogers for potential adoption despite a state warning that it could not because a waiver of the required criminal background check had not been obtained, Suter said. City social service workers erred by placing the boy in a home never properly licensed, he added.

Our

ISSUE

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**EXCLUSIVE
INTERVIEW**
WITH TOM SELLECK

**TAKING
THE RISK**
OUT OF
BUYING
INSURANCE

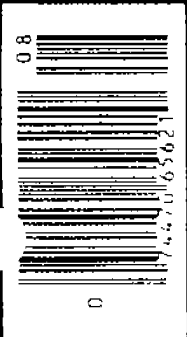
**BACK TO
SCHOOL
FASHIONS**
WITH CLASS

**SPECIAL
REPORT**

TRAVEL
SCANDINAVIA
LAKE ARROWHEAD
ALASKA BY RAIL



PROJECT 10:
WHAT L.A. SCHOOLS
TEACH OUR CHILDREN
ABOUT GAY SEX



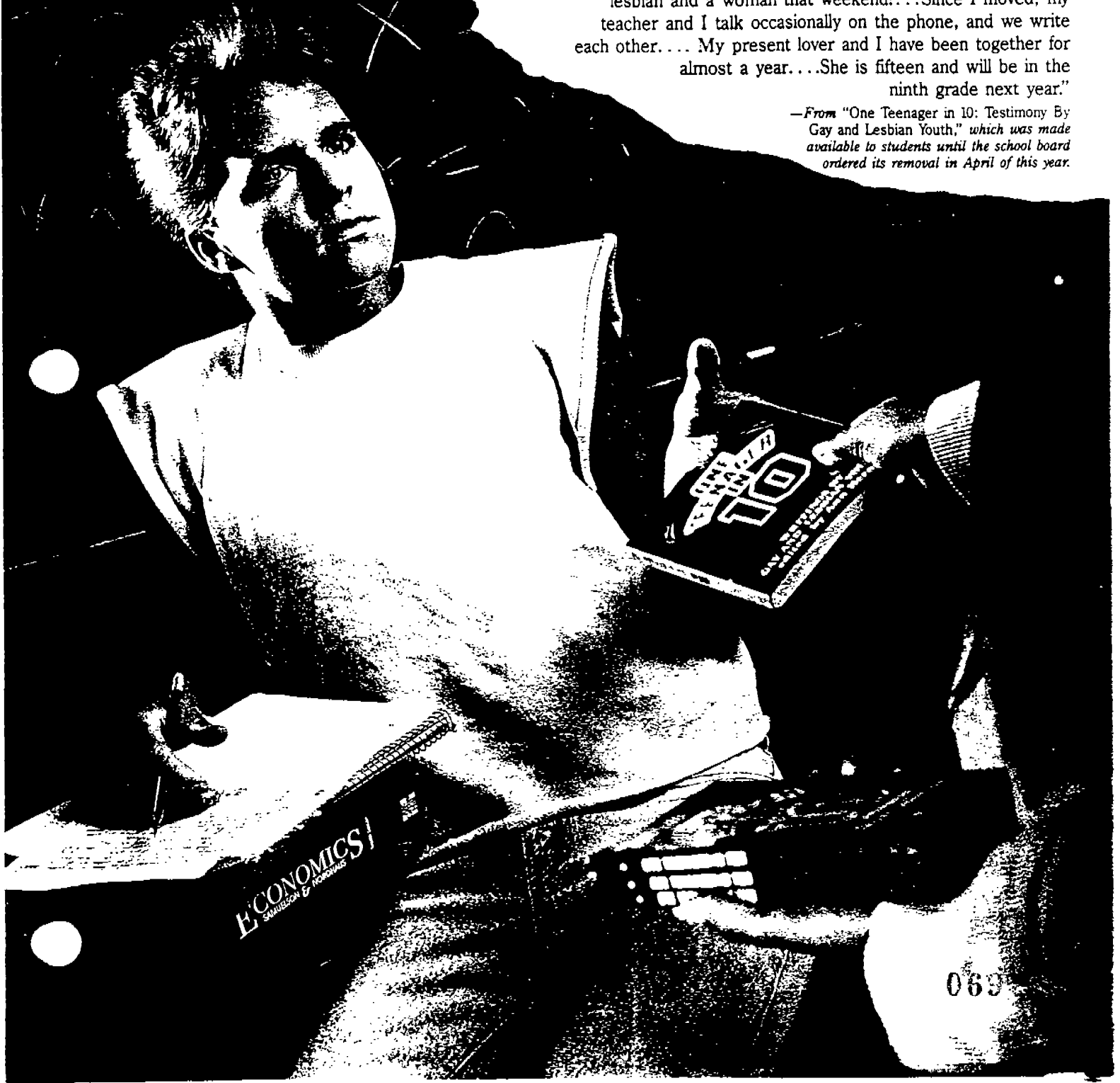
068

EXHIBIT P

What follows is a portion of a graphic chapter that is excerpted from a book that was given to students as part of Project 10:

"I am a sixteen-year-old lesbian. I have been a lesbian since I was twelve. I had known my dance teacher for three years before I was asked to give a special dance presentation in another city. . . 'I want to make love to you. Let's go to bed,' (my teacher said). She positioned me on the bed, with my head on a pillow and my legs spread as wide as she could get them. . . . Before long she was getting her face closer to me and kissing me; using her mouth and tongue on my c-----, giving me a feeling I had never felt before. . . . We continued that night, all weekend and for almost three years until I had to move with my family. I became a lesbian and a woman that weekend! . . . Since I moved, my teacher and I talk occasionally on the phone, and we write each other. . . . My present lover and I have been together for almost a year. . . . She is fifteen and will be in the ninth grade next year."

—From "One Teenager in 10: Testimony By Gay and Lesbian Youth," which was made available to students until the school board ordered its removal in April of this year.



PROJECT 10

What schools teach children about gay sex

A controversial program sponsored by the Los Angeles Unified School District pits parents and legislators against principals and board members in a battle likely to have nationwide impact. At issue is whether morality and life-style should be taught at home or in the school.

By Manley Witten

February 24, 1988, began like any other Wednesday at San Fernando High School. Before day's end, however, one incident became the thunderbolt that jolted parents into an electrifying confrontation with the Los Angeles Unified School District Board of Education.

Elizabeth Ramos, 16, arrived that day prepared to take a test in her fourth-period history class. Instead, the test was postponed and her 11th-grade class was brought into the library. There, according to a number of students, they heard Virginia Uribe, a lesbian teacher, tell them she practices "safe sex," that it is OK for them to have sexual feelings for other people of the same sex and, based on research, that 10 percent of them probably are gay.

They say she also gave telephone numbers for students to obtain additional information on gay and lesbian life-styles.

Students say when they voiced disagreement, some based on their religious beliefs, Uribe kept changing the subject.

Like others in her class, Elizabeth has no interest in gay life-styles, but she was forced to attend.

Unknowingly, Elizabeth was thrust into Project 10.

Project 10 is a school-sponsored program, which therefore uses taxpayer

dollars, to counsel students by offering "emotional support, information, resources and referral to young people *who identify themselves* as lesbian, gay or bisexual or *who want* accurate information. . . ." according to literature distributed by the LAUSD (italics added for emphasis).

Extensive interviews by *Valley Magazine* indicate that **parental consent was not obtained for any of the 150 students** who heard Uribe speak that day.

Project 10 opponents allege that this lack of parental consent is a violation of California Education Code Section 51550, which provides in part that, "No governing board of a public elementary or secondary school may require pupils to attend any class in which human reproductive organs and functions and processes are described, illustrated or discussed, whether such class be part of a course designated "sex education" or "family life education" or by some similar term, or part of any other course which pupils are required to attend.

"If classes are offered in public elementary and secondary schools in which human reproductive organs and their functions and processes are described, illustrated or discussed, the parent or guardian of each pupil enrolled in such

class shall first be notified in writing of the class. . . .

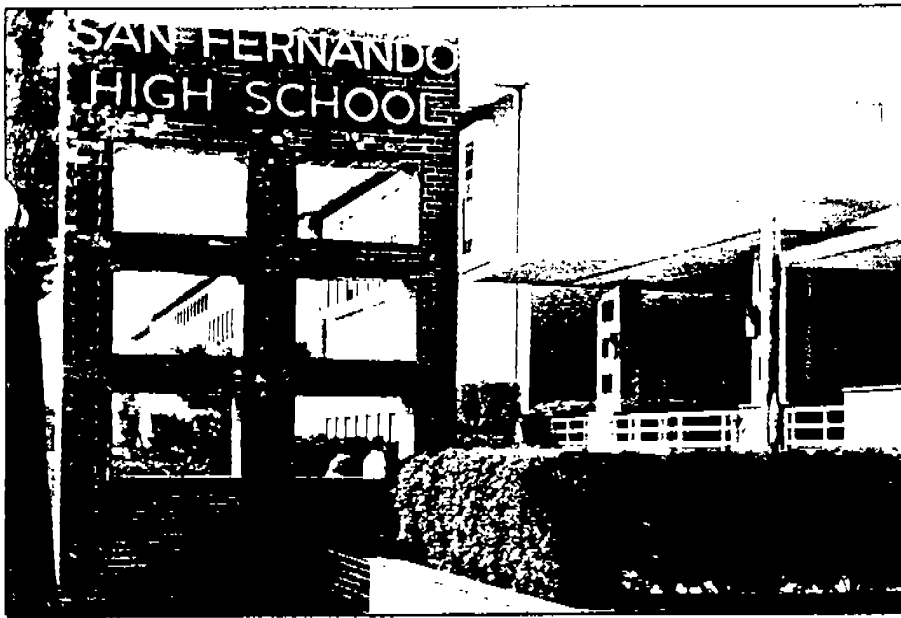
"Opportunity shall be provided to each parent or guardian to request in writing that his child not attend the class."

Some teachers and administrators question whether this section applies to Uribe's presentation at San Fernando High School. Uribe herself claims she does not think obtaining parental consent is needed legally, but she has no objection to it.

Sexually explicit materials made available to students through Project 10—and only recently discontinued after public protests before the school board—have included the book, "*One Teenager in 10: Testimony by Gay and Lesbian Youth.*"

The following is a portion of a graphic chapter that is excerpted from the book:

"I am a sixteen-year-old lesbian. I have been a lesbian since I was twelve. I had known my dance teacher for three years before I was asked to give a special dance presentation in another city. . . . 'I want to make love to you. Let's go to bed,' (my teacher said) . . . She positioned me on the bed, with my head on a pillow and my legs spread as wide as she could get them. . . . Before long she was getting her face closer to me and kissing me; using her mouth and tongue



on my c-----, giving me a feeling I had never felt before. . . . We continued that night, all weekend and for almost three years until I had to move with my family. I became a lesbian and a woman that weekend! . . . Since I moved, my teacher and I talk occasionally on the phone, and we write each other. . . . My present lover and I have been together for almost a year. . . . She is fifteen and will be in the ninth grade next year."

Critics also contend that the lack of notice has deprived parents of the opportunity to avail themselves of protections afforded them under Education Code Section 51240. This section states: "Whenever any part of the instruction in health, family life education and sex education conflicts with the religious training and beliefs of the parent or guardian of any pupil, the pupil, on written request of the parent or guardian, shall be excused from the part of the training which conflicts with such religious training and beliefs.

"As used in this section, 'religious training and beliefs' includes personal moral convictions."

In April, about 1,500 parents and students rallied outside San Fernando High School to protest Uribe's visit and Project 10. Many carried signs reading, "Let parents teach values and schools teach 3 Rs" and "Books not condoms."

One of many speakers, Bishop Armando Ochoa, said Project 10 is inconsistent with the role of the school because "it's not an effort for compassionate counseling to troubled youths, but a camouflage for people to be homosexual."

The bishop, representing the Archdiocese of Los Angeles, said the school board imposes Project 10 without consulting parents, thereby creating an adversary role with the community it should serve. Parents are concerned with quality teachers in the classroom and not social engineering, he said.

Critics of Project 10 interviewed by *Valley Magazine* list six major reasons for opposition in addition to lack of parental consent.

They claim:

- The reference to 10 percent of the population being homosexual is false;
- Project 10 advocates homosexuality as a viable life-style and recruits students into homosexuality;
- It violates the right to privacy between parent and child;
- It abridges students' free exercise of religion;
- Encouraging homosexual life-styles increases student exposure to the fatal dangers of contracting AIDS;
- And, at least until recently, it utilized sexually explicit material.

In June, 90 people spoke before the school board's Educational Development and Student Life Committee at the first public hearing on Project 10 since it began four years ago. The committee continues to support Project 10 and, according to Uribe, held the hearing because someone found an "obscure board rule" that calls for a public hearing if it is requested.

"I didn't do anything different at San Fernando than I do any other place," says Uribe, who has been a science teacher at Fairfax High School in Los Angeles for

more than 30 years. "I spoke on the civil rights of gay and lesbian kids."

Uribe says she has visited about 40 schools and she has been given board approval to visit all the 121 junior and senior high schools in the district.

Many parents say schools should teach academics and not "social engineering."

* * *

"I think we should boycott the school," says Elizabeth's mother, Lupe Ramos, adding that the school district loses funds based on the number of students absent. "We teach our children something, the school teaches them something else, and they're getting all confused. 'Which way do I go?' At that age they are very rebellious against parents. The school is using students, a captive audience, as pawns for their liberal way of thinking. We have to go back to morality in schools, starting with the dress code."

She said she wrote a letter to the San Fernando High School principal asking to discuss the incident, but she is still waiting for a response.

"I've lost my trust in the school system and the administration of the Board of Education," she says. "At one point, whatever the school said, that would be fine with me. Now, I read everything with scrutiny, read between the lines and up and down.

"The school asks for my consent to take the students to the museum of science, but (when Uribe spoke) they didn't even let us know."

"I don't understand why they had to drag 90 percent of the students who aren't gay to hear Uribe," says Salvador Paniagua, whose daughter, Michelle, heard Uribe speak. "Why mandate the 90 percent because 10 percent are gay?"

"I couldn't believe that the school had allowed such a thing to take place," says his wife, Evelyn. "Of all things, not to contact us and let us give permission like they do in sex classes. (Students) shouldn't have been pulled out. I work for a public school and that doesn't happen at all without the parent's consent."

"Students started debating with (Uribe)," says Michelle. "They were telling her it was wrong, but she didn't want to hear what we had to say. I don't know of any students who agreed with her. When she talked about an encounter with her previous lover, everyone was saying it was gross. One student told

her, 'God made Adam and Eve, not Adam and Steve.'

Uribe's talk "made me sick," says Elizabeth. "We couldn't believe how the school could let someone like this come and talk to us."

"I would rather have taken the history test," she says.

Many parents were upset because they had not been notified in advance of Uribe's visit.

San Fernando High School Principal Bart Kricorian was not available for comment, despite four calls by *Valley Magazine* requesting his response to Uribe's visit to the school.

Uribe says she only visits schools when invited.

"If I had done my homework, I would have known (what to expect at San Fernando High School)," says Uribe, who describes her background as including a counseling credential, master's degree in psychology and doctorate in counseling psychology. "People were very hostile. There are a group of people in the area representing various philosophies of education who have coalesced and are hostile to sexual education in school, period. Some feel school should be reading, writing and arithmetic, with no social issues. . . . Without the leadership (of fundamental Christian groups), students wouldn't have been upset.

"I've spoken all over the city to hundreds and hundreds of people since the program has been going and haven't had five complaints."

In the Valley, there are complaints.

"Schools can't be turned into the battleground to change or mold our children into accepting a life-style that is contrary to my belief as a parent," says the Rev. Tim Emerick of Luz de Cristo in Van Nuys. His son, Juan, who was taken from his economics class to hear Uribe speak, says he kept thinking, "What does this have to do with economics?"

"I don't feel that the school should be a forum for homosexuals," Juan said at the June hearing. "These are family issues that involve family values. . . . If these kids need help they should get the help with parents' knowledge and consent or they should get help outside, separately from the school."

Tim Emerick said more than 1,500 signed petitions opposing Project 10 have been sent to the school board.

"The petitions made very clear that

we will remember you (the board) at election time," he says. "Your constituency is against this, you're for it, and we'll remember on Election Day."

The school board is seemingly pleased with Project 10, having honored Uribe in March.

Spearheading opposition to Project 10 is the Rev. Lou Sheldon, chairman of the Traditional Values Coalition, a statewide registered lobby of 5,000 churches plus individuals.

"First, Project 10 is a recruitment

We want students to grow to maturity without sexual involvement.

—Ruth Rich

program," Sheldon says. "No balanced program is offered. (Students') religious upbringing is set aside. They are given the gay youth newsletter and other gay affirming material. They are encouraged to go to the Gay and Lesbian Community Services Center.

"Second, the parent/child relationship is being violated—flagrantly violated—when you have the state and school district becoming an adversary against parent/child privacy rights and tearing down those rights. The parent does not even know their child is being counseled into homosexuality until the counselor prepares the student to tell the parent. 'Coming Out to Your Parents' is a pamphlet distributed through Project 10.

"Third, you have the school district (establishing religion by) saying, 'We have the right moral answer concerning homosexuality even though that answer transcends your answer.'

"Fourth, the board is violating the students' and our First Amendment rights concerning free exercise of religion. Their spokespeople belittle, demean and insult anyone who is opposed to Project 10.

"Lastly, the program is based on lies. Even the name, Project 10, is propaganda, trying to make people believe that 10 percent of all people are homosexual. . . . (Two Kinsey Institute officials) say that 4 percent of the males and closer to 1 percent of the females act in a homosexual manner most of their

lifetime."

Uribe bases the 10 percent on research by Alfred Kinsey.

Page 651 of Kinsey's "*Sexual Behavior in the Human Male*," published in 1948, says "10 percent of the males (in the sample) are more or less exclusively homosexual for at least three years between the ages of 16 and 55. . . . Eight percent of the males are exclusively homosexual (for at least three years). . . . Four percent of the white males are exclusively homosexual throughout their lives, after the onset of adolescence."

(The study was based on the histories of 1,200 people, ranging from prostitutes and prison inmates to "persons in the Social Register" and public school teachers.)

"People are not born homosexual," Sheldon continues. "Various factors in their life lend to their choosing the homosexual life-style. . . . There are many groups across America, such as Exodus International, who have helped thousands of people to escape from the homosexual life-style."

Rick and Cathy Mills, formerly of Van Nuys and now living in Knoxville, Tenn., say they are proof that people who once were homosexual can become heterosexual. They say before they met and were married, each had been homosexual and then independently left that life-style. They say they have counseled nearly 200 people who didn't want to be homosexual anymore.

At the June public hearing, Karen Blakeney said she represents thousands of ex-gays in the United States.

"Project 10 promotes the viewpoint that one is born inherently gay," she says. "But the burden of proof concerning that viewpoint still lies with those who propose it. Scientifically, it has not been proven that there is any genetic code that predisposes anyone to a gay orientation. Psychologically, there is evidence, however, that one's life experiences do have a profound effect on how we view our sexuality."

Ruth Rich, instruction specialist for health education for the school district, says the official position regarding sexual education is abstinence.

"No one wants youngsters to be involved in early sexual activity," Rich says. "It is not in their best interests. . . . We want students to grow to maturity without sexual involvement. We want them

to be good decision-makers."

She says students should be taught not to label themselves or others unnecessarily and to develop self-esteem for who they are.

"Most students are not sexually active and if they are, we tell them of the risk of pregnancy and disease," she says.

Sheldon claims by sending students to the Gay and Lesbian Community Services Center, Uribe encourages minors to find potential sex partners. Uribe counters that when heterosexual kids go to a dance, they meet potential sex partners. She says it is erroneous for people to think gays seek to have sex right away with other gays they meet, adding that if schools provided a support system for gays they wouldn't have to go elsewhere.

Project 10 comes across as "very humanitarian," Sheldon says. "(On the surface), it's an altruistic, community-based on-site program, aimed at a minority that has historically been excluded. It's information-oriented and uses appropriate resources. It's innocuous."

"But," he adds, "it's atomic if you read between the lines."

Project 10 began at Fairfax High School in 1984, when a gay student who transferred from another school was harassed by other students, Uribe says. The harassment led to fighting, the student went to another school, where it happened again, and he dropped out.

"When this happened, I didn't know what to do," Uribe says. "I talked to another kid who was gay to set up an informal rap at lunchtime. This kid and other kids looked at me like I was crazy. No one had ever talked to them about this." She spoke to Fairfax Principal Warren Steinberg, who was supportive of the need for a "safe room," where gay and lesbian students could come to discuss their feelings with Uribe.

Uribe organized a support group comprising community members, including parents, students and clergy.

"Within a month, 25 kids were coming once a week... talking about their experiences in school, about harassment," Uribe says. This became the pilot program for Project 10.

Uribe received approval last fall to take the project district-wide. The board never voted on the project, although it was approved by a committee. The board says programs not requiring additional funds do not need board approval.

Gabe Kruks, director of youth services for the Gay and Lesbian Community Services Center in Los Angeles, offers support for Project 10.

"It is crucial for Project 10 to exist," he says. "(The aspect of recruiting) is ridiculous. There is no advocacy. You

Uribe received approval last fall to take the project district-wide. The board never voted on the project, although it was approved by a committee. The board says programs not requiring additional funds do not need board approval.

can't make someone gay or straight. . . . Project 10 can help prevent suicides (and suicide attempts, which are higher statistically among gay youths) . . . Project 10 affects the whole school—on the lower level it addresses homophobia and on a higher level provides education on all issues affecting gays."

Asked about the impact of the homosexual life-style on traditional family values, Kruks offers these statistics:

Half of all marriages end in divorce. A study in Los Angeles County in 1983 showed 52,000 incidents of sexual and physical abuse of children. In certain categories of abuse cases, 95 percent are family-related.

"Traditional family values are divorce (and child abuse)," he says.

An assistant principal in one LAUSD secondary school, who spoke on the condition that his name not be used, says he refused to disseminate a packet of materials for Project 10 that Uribe distributed.

"It's not a decision junior high people can make without their parents," he says. "This should come from the home." He says about a dozen of the more than 100 counselors Uribe addressed last year agree with him, but they're afraid to speak out for fear of retribution. He says he is intimidated by board members because he likes the school he is in and

doesn't want a different assignment.

Kruks says "*One Teenager in 10*," of all books available, probably has the most positive and profound impact for kids and parents.

"It is not inappropriate," he says. "We're either going to have censorship or not."

Mort Tenner, administrative consultant in the Office of School Operations, says he was asked to investigate allegations that some materials available through Project 10 were pornographic. His report, presented to the board this year, indicated "*One Teenager in 10*," has no place whatsoever in the school, he says.

He also says, "*Changing Bodies, Changing Lives*," which was available to students, is approved for use by health teachers but not for student instruction.

Tenner says the district superintendent notified Uribe to remove both books.

Uribe claims that she did not use "*Changing Bodies, Changing Lives*." Tenner indicated it was previously available at the Fairfax High School library.

This book has been referred to by critics as a how-to manual that graphically and explicitly describes in the simplest terms the various techniques that homosexuals utilize to engage in a variety of gay and lesbian sex acts.

Tenner also says the operations staff will present recommendations in September on whether parental consent will be required for Project 10, adding that it is a logical extension of what is done for health courses when sexual reproduction is discussed. He said while speakers are cleared by school principals, it is wise to let parents know the subject matter in advance.

He says the recommendation will be announced at the first meeting of school principals next month.

State Assemblywoman Marian La Follette, R-Northridge, has garnered the support of the Republican Caucus not to approve any measure that calls for new monies for the Los Angeles Unified School District until Project 10 is stopped.

"Parents could accomplish so much if they would speak out," she says. "I know they're frustrated but we cannot acquiesce and roll over and say it's useless. We must be aware of the kinds of programs the school board is sponsoring and supporting. We must make our pleasure or displeasure known to principals of schools as well as the board.

Pressure and vigilance are needed. . . . The board is convinced that this is a proper program."

A member of the Assembly Education Committee, La Follette says it is important for the school board to recognize a group of parents and pupils who are, first, heterosexual and, secondly, not prepared to discuss this subject in school.

"Parents should be the ones to teach life-styles," La Follette says, adding it's not just Christians who oppose Project 10. "A lot of people are appalled at what the school board does but are not as vocal as some. A large group of people leaves battles to others."

La Follette, who is working to divide the board into several smaller ones to better serve the various communities within Los Angeles County, says it is important for the board to recognize that pupils are not prepared to discuss sexuality in school.

"Young people have lots of problems with sex. The teen years are a big question. Young people who are homosexual have counselors available to respond to their needs and concerns. That is an objective of the Project 10 outreach."

Parents should be the ones to teach life-styles. A lot of people are appalled at what the school board does.

—Marion La Follette

But, she says, Project 10 also places "an avowed lesbian in the position of promoting homosexuality."

At the June hearing before the Educational Development and Student Life Committee, Steve Afriat, a gay who is a member of the board of Head Start in the Valley, told the panel he hopes Project 10 is expanded "in every single high school in the Los Angeles Unified School District, because those children are everywhere." He called Project 10 a "sanctuary for gay and lesbian students (who have nowhere to turn)."

The media also have taken Project 10 to task. The Valley's *Daily News* editorialized in June that the program is "practically an invitation to a lawsuit: Uribe is not highly credentialed, is perceived by

many to be biased, and counsels students under little supervision. . . . We believe the responsibility for the program's poor reception rests squarely on the shoulders of the school board."

* * *

"Schools make my job (as a parent) tough," Lupe Ramos says. "We teach our children to live right, morally and ethically, and give them self-respect. The school system—not the academics, but the sex education, projects like this one—really makes it tough for parents."

"Sex is not dirty, people make it dirty," Ramos says she tells her daughter. "(It's) the most beautiful thing a man and woman can share to show love, but only after they're married. . . . Those of us who want to preserve our culture, preserve family values, we're being stepped on by the school system. . . . In this country it's hard to live by that culture. I'm glad my mother and father were old-fashioned because if not I probably would be patting Virginia Uribe on the back. But I'm not, I'm sticking with my values. It boils down to moral and family values." ❖

Manley Witten is editor of Valley Magazine.



Valley Magazine Reader Poll—Project 10

Valley Magazine would like your opinion about Project 10. **Valley Magazine** will continue to keep you informed about this and similar issues, but we need your help and input. Please fill out this confidential reader poll and return. You'll be helping us focus on a follow-up story as well as telling us what other pressing issues you would like to see reported. If you would like to subscribe to **Valley Magazine**, please fill out the reverse side of this card and mail it back to us. Thank you.

1. From what you now understand about Project 10, are you:

- In favor of continuing and expanding it
- Opposed to it continuing
- Comments: _____

2. What action, if any, should be taken by:

- Parents/students: _____
- School board: _____
- Comments: _____

3. Do you (and/or your children) have any personal involvement with Project 10?

- Yes No
- Describe: _____
- Was your permission sought in advance?
- Parent: Yes No Student: Yes No

4. Would you like to see Valley Magazine report on more issues like this?

- Yes No
- Suggested topics: _____

5. Other comments: _____

- Name (optional) _____
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SENATE DAILY JOURNAL

5-26-93

— 4 —

By the Committee on Transportation:

Senate Bill No. 503—An Act relating to common motor carriers; authorizing such carriers to transport various items for charitable organizations for free or at reduced rates; and providing other matters properly relating thereto.

Senator O'Donnell moved that the bill be referred to the Committee on Transportation.

Motion carried.

By the Committee on Natural Resources:

Senate Bill No. 504—An Act relating to wildlife; allowing fishing with more than one combination of hook, line and rod upon the payment of a fee; and providing other matters properly relating thereto.

Senator Smith moved that the bill be referred to the Committee on Natural Resources.

Motion carried.

Assembly Bill No. 77.

Senator Rawson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 582.

Senator Rawson moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Assembly Bill No. 588.

Senator Rawson moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senator Raggio moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 11:21 a.m.

SENATE IN SESSION

At 11:57 a.m.

President Wagner presiding.

Quorum present.

SECOND READING AND AMENDMENT

Senate Bill No. 466.

Bill read second time.

The following amendment was proposed by Senator Shaffer:

Amendment No. 630.

Amend the bill as a whole by deleting sections 1 through 7 and the text of repealed sections and adding new sections designated sections 1 and 2, following the enacting clause, to read as follows:

“Section 1. NRS 201.190 is hereby amended to read as follows:

201.190 1. Except as provided in *this section and* NRS 200.366 and 201.230, every person of full age who commits the infamous crime against nature shall be punished by imprisonment in the state prison for not less than 1 year nor more than 6 years.

2. *No criminal prosecution for the infamous crime against nature may be initiated on the basis of information which was obtained because a person submitted to medical tests or treatment for a sexually transmitted disease.*

3. *No information described in subsection 2 is admissible in a criminal prosecution, unless the prosecution shows that the information:*

(a) *Was independently discovered; or*

(b) *Inevitably would have been discovered based on independent information.*

4. The “infamous crime against nature” means anal intercourse, cunnilingus or fellatio between consenting adults of the same sex [.], *except that the term does not include such conduct that occurs in the privacy of a person’s abode or dwelling place, or a similarly private setting.*

Sec. 2. This act becomes effective upon passage and approval.”

Amend the title of the bill, first line, by deleting “repealing” and inserting “revising”.

Amend the summary of the bill, first line, by deleting “Repeals” and inserting “Revises”.

Senator Shaffer withdrew Amendment No. 630 to Senate Bill No. 466.

The following amendment was proposed by Senator Adler:

Amendment No. 637.

Amend the bill as a whole by renumbering sections 1 and 2 as sections 2 and 3 and adding a new section designated section 1, following the enacting clause, to read as follows:

“Section 1. NRS 201.190 is hereby amended to read as follows:

201.190 [1.] Except as provided in NRS 200.366 and 201.230, every person of full age who commits [the infamous crime against nature] *anal intercourse, cunnilingus or fellatio in public* shall be punished by imprisonment in the state prison for not less than 1 year nor more than 6 years.

[2. The “infamous crime against nature” means anal intercourse, cunnilingus or fellatio between consenting adults of the same sex.]”

Amend the bill as a whole by deleting sections 3 through 5 and adding a new section designated sec. 4, following sec. 2, to read as follows:

“Sec. 4. Section 1 of Senate Bill No. 13 of this session is hereby amended to read as follows:

Section 1. NRS 209.385 is hereby amended to read as follows:

209.385 1. Each offender committed to the custody of the department for evaluation or imprisonment shall submit to [an initial test.] *such initial tests as the director determines appropriate to detect exposure to the human immunodeficiency virus. Each such test must be approved by regulation of the state board of health . [, to detect exposure to the human immunodeficiency virus.]* At the time the offender is committed to custody and after any incident involving the offender:

- (a) The [test] *appropriate approved tests* must be administered; and
- (b) The offender must receive counseling regarding the virus.

2. If the results of any initial test are positive, the offender shall submit to [a supplemental test] *such supplemental tests as the director determines appropriate. Each such test must be approved for the purpose by regulation of the state board of health.*

3. If the results of any supplemental test are positive, the name of the offender must be disclosed to:

- (a) The director;
- (b) The administrative officers of the department who are responsible for the classification and medical treatment of offenders;
- (c) The manager or warden of the facility or institution at which the offender is confined; and
- (d) Each other employee of the department whose normal duties involve him with the offender or require him to come into contact with the blood or bodily fluids of the offender.

4. The offender must be segregated from every other offender whose test results are negative if:

- (a) The results of any supplemental test are positive; and
- (b) The offender engages in behavior that increases the risk of transmitting the virus, such as battery, the infamous crime against nature, sexual intercourse in its ordinary meaning or illegal intravenous injection of a controlled substance or a dangerous drug as defined in chapter 454 of NRS.

5. The director, with the approval of the board:

(a) Shall establish for inmates and employees of the department an educational program regarding the virus whose curriculum is provided by the health division of the department of human resources. Any person who provides instruction for this program must be certified to do so by the health division.

(b) May adopt such regulations as are necessary to carry out the provisions of this section.

6. As used in this section:

(a) "Incident" means any occurrence, of a kind specified by regulation of the state board of health, that entails a significant risk of exposure to the human immunodeficiency virus.

(b) "Infamous crime against nature" means anal intercourse, cunnilingus or fellatio between natural persons of the same sex."

Amend the bill as a whole by renumbering sections 6 and 7 as sections 5 and 6.

Amend sec. 6, page 4, by deleting line 48 and inserting:

"Sec. 5. NRS 201.193 is hereby repealed."

Amend the text of repealed sections to read as follows:

TEXT OF REPEALED SECTION

201.193 Crime against nature: Sexual penetration. Any sexual penetration, however slight, is sufficient to complete the crime against nature."

Amend the title of the bill to read as follows:



“An Act relating to crimes; prohibiting certain sexual conduct in public; and providing other matters properly relating thereto.”.

Amend the summary of the bill to read as follows:

“Summary—Prohibits certain sexual conduct in public. (BDR 15-1219)”.

Senator Adler moved the adoption of the amendment.

Remarks by Senators Adler, O'Donnell and Callister.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 194.

Bill read second time and ordered to third reading.

Assembly Bill No. 376.

Bill read second time and ordered to third reading.

Assembly Bill No. 402.

Bill read second time and ordered to third reading.

Assembly Bill No. 438.

Bill read second time and ordered to third reading.

Assembly Bill No. 441.

Bill read second time and ordered to third reading.

Assembly Bill No. 443.

Bill read second time and ordered to third reading.

Assembly Bill No. 454.

Bill read second time and ordered to third reading.

Assembly Bill No. 502.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 309.

Bill read third time.

Roll call on Senate Bill No. 309:

YEAS—21.

NAYS—None.

Senate Bill No. 309 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 335.

Bill read third time.

Remarks by Senators O'Connell and Raggio.

Roll call on Senate Bill No. 335:

YEAS—21.

NAYS—None.

Senate Bill No. 335 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

(REPRINTED WITH ADOPTED AMENDMENTS)
FIRST REPRINT S.B. 466

SENATE BILL NO. 466—COMMITTEE ON COMMERCE AND LABOR

MAY 13, 1993

Referred to Committee on Judiciary

SUMMARY—Prohibits certain sexual conduct in public. (BDR 15-1219)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in italics is new; matter in brackets [] is material to be omitted.

AN ACT relating to crimes; prohibiting certain sexual conduct in public; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 201.190 is hereby amended to read as follows:
2 201.190 [1.] Except as provided in NRS 200.366 and 201.230, every
3 person of full age who commits [the infamous crime against nature] *anal*
4 *intercourse, cunnilingus or fellatio in public* shall be punished by imprison-
5 ment in the state prison for not less than 1 year nor more than 6 years.
6 [2. The “infamous crime against nature” means anal intercourse, cunni-
7 lingus or fellatio between consenting adults of the same sex.]
8 **Sec. 2.** NRS 201.195 is hereby amended to read as follows:
9 201.195 1. Any person who incites, entices or solicits a minor to engage
10 in acts which [would] constitute the infamous crime against nature : [if
11 performed by an adult:]
12 (a) If the minor actually engaged in such acts as a result, shall be punished
13 by imprisonment in the state prison for not less than 1 year nor more than 6
14 years.
15 (b) If the minor did not engage in such acts:
16 (1) For the first offense, is guilty of a gross misdemeanor.
17 (2) For any subsequent offense, is guilty of a felony and shall be pun-
18 ished by imprisonment in the state prison for not less than 1 year nor more
19 than 6 years.
20 2. A person convicted of violating any of the provisions of subsection 1
21 may not be:
22 (a) Paroled unless a board consisting of:
23 (1) The administrator of the mental hygiene and mental retardation divi-
24 sion of the department of human resources or his designee;
25 (2) The director of the department of prisons or his designee; and
26 (3) A psychologist licensed to practice in Nevada or a psychiatrist
27 licensed to practice medicine in Nevada,

1 certifies that the person so convicted was under observation while confined in
2 an institution of the department of prisons and is not a menace to the health,
3 safety or morals of others.

4 (b) Released on probation unless a psychologist licensed to practice in
5 Nevada or a psychiatrist licensed to practice medicine in Nevada certifies that
6 the person so convicted is not a menace to the health, safety or morals of
7 others.

8 3. *As used in this section, the "infamous crime against nature" means*
9 *anal intercourse, cunnilingus or fellatio between natural persons of the same*
10 *sex. Any sexual penetration, however slight, is sufficient to complete the*
11 *infamous crime against nature.*

12 Sec. 3. NRS 209.385 is hereby amended to read as follows:

13 209.385 1. Each offender committed to the custody of the department
14 for evaluation or imprisonment shall submit to an initial test, approved by
15 regulation of the state board of health, to detect exposure to the human
16 immunodeficiency virus. At the time the offender is committed to custody and
17 after any incident involving the offender:

18 (a) The test must be administered; and

19 (b) The offender must receive counseling regarding the virus.

20 2. If the results of any initial test are positive, the offender shall submit to
21 a supplemental test approved for the purpose by regulation of the state board
22 of health.

23 3. If the results of any supplemental test are positive, the name of the
24 offender must be disclosed to:

25 (a) The director;

26 (b) The administrative officers of the department who are responsible for
27 the classification and medical treatment of offenders;

28 (c) The manager or warden of the facility or institution at which the
29 offender is confined; and

30 (d) Each other employee of the department whose normal duties involve
31 him with the offender or require him to come into contact with the blood or
32 bodily fluids of the offender.

33 4. The offender must be segregated from every other offender whose test
34 results are negative if:

35 (a) The results of any supplemental test are positive; and

36 (b) The offender engages in behavior that increases the risk of transmitting
37 the virus, such as battery, the infamous crime against nature, sexual inter-
38 course in its ordinary meaning or illegal intravenous injection of a controlled
39 substance or a dangerous drug as defined in chapter 454 of NRS.

40 5. The director, with the approval of the board:

41 (a) Shall establish for inmates and employees of the department an educa-
42 tional program regarding the virus whose curriculum is provided by the
43 health division of the department of human resources. Any person who
44 provides instruction for this program must be certified to do so by the health
45 division.

46 (b) May adopt such regulations as are necessary to carry out the provisions
47 of this section.

48 6. As used in this section [, "incident"] :

1 (a) "Incident" means any occurrence, of a kind specified by regulation of
2 the state board of health, that entails a significant risk of exposure to the
3 human immunodeficiency virus.

4 (b) "Infamous crime against nature" means anal intercourse, cunnilingus
5 or fellatio between natural persons of the same sex.

6 Sec. 4. Section 1 of Senate Bill No. 13 of this session is hereby amended
7 to read as follows:

8 Section 1. NRS 209.385 is hereby amended to read as follows:

9 209.385 1. Each offender committed to the custody of the depart-
10 ment for evaluation or imprisonment shall submit to [an initial test,]
11 such initial tests as the director determines appropriate to detect expo-
12 sure to the human immunodeficiency virus. Each such test must be
13 approved by regulation of the state board of health . [, to detect expo-
14 sure to the human immunodeficiency virus.] At the time the offender is
15 committed to custody and after any incident involving the offender:

16 (a) The [test] appropriate approved tests must be administered; and
17 (b) The offender must receive counseling regarding the virus.

18 2. If the results of any initial test are positive, the offender shall
19 submit to [a supplemental test] such supplemental tests as the director
20 determines appropriate. Each such test must be approved for the pur-
21 pose by regulation of the state board of health.

22 3. If the results of any supplemental test are positive, the name of the
23 offender must be disclosed to:

24 (a) The director;

25 (b) The administrative officers of the department who are responsible
26 for the classification and medical treatment of offenders;

27 (c) The manager or warden of the facility or institution at which the
28 offender is confined; and

29 (d) Each other employee of the department whose normal duties
30 involve him with the offender or require him to come into contact with
31 the blood or bodily fluids of the offender.

32 4. The offender must be segregated from every other offender whose
33 test results are negative if:

34 (a) The results of any supplemental test are positive; and

35 (b) The offender engages in behavior that increases the risk of trans-
36 mitting the virus, such as battery, the infamous crime against nature,
37 sexual intercourse in its ordinary meaning or illegal intravenous injec-
38 tion of a controlled substance or a dangerous drug as defined in chapter
39 454 of NRS.

40 5. The director, with the approval of the board:

41 (a) Shall establish for inmates and employees of the department an
42 educational program regarding the virus whose curriculum is provided
43 by the health division of the department of human resources. Any person
44 who provides instruction for this program must be certified to do so by
45 the health division.

46 (b) May adopt such regulations as are necessary to carry out the
47 provisions of this section.

48 6. As used in this section:

- 1 (a) "Incident" means any occurrence, of a kind specified by regula-
2 tion of the state board of health, that entails a significant risk of exposure
3 to the human immunodeficiency virus.
4 (b) "Infamous crime against nature" means anal intercourse, cunni-
5 lingus or fellatio between natural persons of the same sex.
6 Sec. 5. NRS 201.193 is hereby repealed.
7 Sec. 6. This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTION

201.193 Crime against nature: Sexual penetration. Any sexual penetration, however slight, is sufficient to complete the crime against nature.

5-28-93

- 17 -

Senate Bill No. 466.

Bill read third time.

The following amendment was proposed by Senators O'Connell and Rawson:

Amendment No. 679.

Amend the bill as a whole by renumbering sections 1 and 2 as sections 4 and 5 and adding new sections designated sections 1 through 3, following the enacting clause, to read as follows:

"Section 1. Chapter 201 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *Any person who, after testing positive in a test approved by the state board of health for exposure to the human immunodeficiency virus and receiving actual notice of that fact, willfully, wantonly or negligently engages in conduct in a manner that is intended or likely to transmit the disease to another person is guilty of a felony and shall be punished by imprisonment in the state prison for not less than 1 year nor more than 20 years, or by a fine of not more than \$10,000, or by both fine and imprisonment.*

Sec. 3. 1. *It is unlawful for any person to engage in prostitution with a person of the same sex.*

2. *Any person who violates subsection 1 is guilty of a misdemeanor."*

Amend section 1, page 1, by deleting lines 2 through 7 and inserting:

"201.190 1. Except as *otherwise* provided in *this section and NRS 200.366 and 201.230*, every person of full age who commits [the infamous crime against nature] *anal intercourse, cunnilingus or fellatio* shall be punished by imprisonment in the state prison for not less than 1 year nor more than 6 years.

2. [The "infamous crime against nature" means anal intercourse, cunnilingus or fellatio between consenting adults of the same sex.] *No criminal prosecution may be initiated pursuant to subsection 1 if the prohibited conduct occurs between consenting adults in the privacy of a person's abode or dwelling place, or a similarly private place of lodging."*

Amend the bill as a whole by renumbering sections 3 through 6 as sections 7 through 10 and adding a new section designated sec. 6, following sec. 2, to read as follows:

"Sec. 6. NRS 201.295 is hereby amended to read as follows:

201.295 As used in NRS 201.295 to 201.440, inclusive, *and section 3 of this act*, unless the context otherwise requires:

1. "Prostitute" means a male or female person who for a fee engages in sexual intercourse, oral-genital contact or any touching of the sexual organs or other intimate parts of a person for the purpose of arousing or gratifying the sexual desire of either person.

2. "Prostitution" means engaging in sexual conduct for a fee.

3. "Sexual conduct" means any of the acts enumerated in subsection 1."

Amend the bill as a whole by adding a preamble, before the enacting clause, to read as follows:

“WHEREAS, The protection of the health, safety and welfare of members of the general public is one of the fundamental obligations of the state; and

WHEREAS, It is in the interest of the residents of this state to encourage the control, prevention and treatment of communicable diseases; and

WHEREAS, The state has a vital interest in protecting the welfare of the public by restricting behavior that increases the risk of transmitting such diseases; and

WHEREAS, Even though the state has a duty to protect the public welfare of its residents from behavior that can have serious social, economic and political consequences, it must also protect the privacy of persons who reside within its boundaries; and

WHEREAS, It is recognized that certain private behavior is beyond the scope of the state’s interest in protecting the health and welfare of its residents; and

WHEREAS, It is the public policy of the State of Nevada and the purpose of this act to balance the interest of the state in protecting the health, welfare and safety of its residents with each resident’s legitimate right to privacy; now, therefore,”

Amend the title of the bill to read as follows:

“An Act relating to crimes; making it unlawful to engage in certain conduct through which the human immunodeficiency virus may be transmitted after testing positive for the disease; revising the prohibition against sexual conduct between consenting adults of the same sex; making it unlawful to engage in prostitution with a person of the same sex; providing a penalty; and providing other matters properly relating thereto.”

Amend the summary of the bill to read as follows:

“Summary—Makes various changes to provisions governing unlawful sexual conduct. (BDR 15-1219)”

Senator O’Connell moved the adoption of the amendment.

Remarks by Senators O’Connell, James, Callister, Rawson, O’Donnell and Neal.

Senator Rawson requested that the following remarks be entered in the Journal.

SENATOR O’CONNELL:

Thank you, Mister President pro Tempore. The purpose of this amendment is really threefold. The first is to place into law a penalty for anyone who willfully or negligently transmits the AIDS virus. The maker of the amendment, which was placed on the bill on Wednesday, and chairman of the Judiciary Committee, thought that this was already addressed in law. However, upon checking with our legal department, we found that this was not the case. Present law only addresses those people in prison and prostitutes. On page two of the amendment, you will see by the language change that it is not our intention to invade anyone’s personal privacy.

The second concern addresses the issue of same-sex prostitution. This would close the door, which is presently opened by the language contained in Senate Bill No. 466, to the prospect of same-sex brothels. Now, realizing that this is a very divisive issue, I would hope that both sides recognize that this amendment is offered to try to balance the concerns of the health issues as well as the individual rights to privacy. I think, if I could draw your attention to the preamble of the amendment which begins on the bottom of page 2 and goes through page 3, that you fully understand the intent of the amendment and the

fact that we do not wish again to have the law tamper or be invasive as far as a person's private rights are concerned.

SENATOR JAMES:

Thank you, Mister President pro Tempore. On the amendment, I want to point out that this bill was never intended to deal with the issue of someone who tests positive for AIDS, passing along the AIDS virus negligently or willfully to someone else. I actually thought this already was a crime or should be designated as a crime if it is not. That was not supposed to be a part of this bill. What this bill was intended to do is to decriminalize something which is a private, consensual act between consenting adults. That is the intent of the bill and the reason for it being drafted. I can assure the members of this body that if this amendment is defeated, the Senate Judiciary Committee will introduce a bill which handles Section 2 of the amendment on Tuesday morning.

SENATOR CALLISTER:

Thank you, Mister President pro Tempore. On the amendment, I share the concern which is raised by the maker of the amendment in regards to the HIV issue. HIV is a plague which confronts us as a nation and as a state. I'm impressed that issue needs to be dealt with. However, I am not supportive of addressing it in this measure. Based on the representations made by the chairman of the Judiciary Committee, I feel comfortable that this issue will be properly addressed and taken care of. But we don't need to further muddy the water on this bill. This bill had a fairly precise purpose. That purpose has been addressed by the chairman and I think it is time that we avoid the posturing and start this measure down the hall.

SENATOR RAWSON:

Thank you, Mister President pro Tempore. I think there are a lot of well-meaning legislators who have addressed themselves to this issue in the last few days. I also think there is a legitimate concern on their part for fairness and social equality. They are attempting to do that through passage of this bill. Without this amendment to the bill, we would be left with some serious holes. It is possible for the Judiciary Committee to initiate another bill draft to cover these. It is late in the session to be talking about how easy it is to introduce another bill draft. It is true we can do that. But, let me tell you, the reorganization bill is going to be a foot high, when it gets to our desks. We have our bill drafters working overtime, at this point, when it is not necessary to do it in that way. It can be done through an amendment. This is a proper amendment to the bill which has been presented. This amendment addresses some misuse in which we have a legitimate interest. The fact is, and this is fact, that much of the activity associated with homosexual sex is dangerous. We can forget all of the moral arguments. We can forget all of the religious arguments. But there is a danger that is associated with the practice of this sexual activity. The state has a legitimate interest in that. The protection of the health, safety and welfare of the members of the general public is one of the fundamental obligations of the state. We know that the average homosexual has a life span of 57 years. We can argue about that and say we can overlook that because there is a greater social reason. But there is a health concern and we have a legitimate reason to try to balance any legislation which might cause harm to a greater number of people. It is in the interests of the residents of the state to encourage and control the prevention and treatment of communicable diseases. This bill has been handled exclusively in the Judiciary Committee and has some fundamental problems which need to be dealt with in that committee. But, the Human Resources Committee has some fundamental concerns which need to be dealt with in a human resource context because we do have law which addresses this. Every dental and medical practice in the state is now rapidly trying to convert to an infection control standard that is estimated to add the cost of \$80,000 to every one of those practices. That is a concern which has been established in law. It comes from the CDC on a federal level. It is there because we recognize that there is a legitimate health concern and, in our desire to see that all people are treated equally, let us not overlook the fact that there are legitimate concerns. The state has a vital interest in protecting the welfare of the public. Even though the state has a duty to protect the welfare of its residents from behavior which can be harmful to them, it must also protect the privacy of persons who reside within its boundaries. We have that

entire issue which we have weighed before in this session. It is recognized that certain private behavior is beyond the scope of the state's interest in protecting the health and welfare of the residents. There are some things which people do that simply should not be interfered with. If they choose to smoke cigarettes, even though it is likely to kill them, that is their right, if we want to call it a right. At least, we have defined it as a privilege in this country. It is the public policy of the State of Nevada and the purpose of this amendment to balance the interests of the state in protecting the health, welfare and safety of its residents and each resident's right to privacy. I don't think we need to go into further arguments. The whole issue is out on the table and it is fairly simple.

There are significant health and medical issues and there are significant cost issues which have not been gone into. I think this amendment is a balanced effort to try to recognize the needs and desires of the people on one side and the protection of rights of the people on the other side. I would urge the members of this body to consider what they are doing. Think carefully about the consequences of turning things upside down where all of the risks have not been fully weighed and evaluated and may not be able to be fully evaluated and weighed until more time has passed, more is known and more cures or treatments are available. I would urge you to support this amendment even though there may be some concern with not being able to quickly establish the ultimate freedom you would hope for.

SENATOR O'DONNELL:

Thank you, Mr. President pro Tempore. What this amendment does is to address those individuals who knowingly transmit HIV one to another. The other party may not be aware of the fact that his or her partner may be infected. Without this amendment, government cannot take any action whatsoever. We are helpless to protect the very citizens who we are constitutionally required to protect. My colleague, who happens to be the chairman of the Judiciary Committee, said "probably should be a crime if it is not." This is your chance. My other colleague from southern Nevada said "it should be addressed." This will affect every doctor, every dentist and anyone else who would transmit this ugly disease, one to another, without some form of protection by the government. That is what we are charged to do, protect our citizens.

Some of the other finer points of this amendment have not been addressed, such as male-to-male prostitution, which is addressed in this amendment. This amendment would preclude that act. It is not healthy. I would urge your support of this amendment.

SENATOR NEAL:

Thank you, Mister President pro Tempore. I tried not to speak on this amendment. Reading the amendment, listening to the arguments and trying to be an open-minded individual of this body as to these types of discussions, I had to reflect back upon the time, some years ago, when we had such an issue dealing with sex education in schools. As I look at this amendment, I think some of those arguments that were made in requiring sex education to be taught in the schools, including information about the Human Immunodeficiency Virus, still holds true as far as this amendment is concerned. When I look at Section 2 of the amendment, and having been inundated with material concerning the deadly virus of AIDS, I see this section as a throwback, as a bar to prevent those individuals from coming forward who might have this particular virus. What do you think the people are going to do when they find out that we just enacted provisions saying they would be punished by being put into the state prison for a period of not less than one year and fined not more than \$10,000 or both fined and imprisoned? We have to think about the consequences of our actions in trying to go beyond what our personal beliefs or religious beliefs might be in relationship to this subject. We are talking about people. Whatever their preferences are, they are still classified as citizens and as human beings. I don't know of anyone here who is perfect or who has been born perfectly. Some might think that I am imperfect because I happen to be black. Those of you who have had an opportunity to study biology and have had the opportunity to observe the workings of the natural forces of life cannot, in good conscience, put such an amendment to this bill. The other day I was watching a program on television called "Cheers." The little lady who plays the part of being the sexually aggressive one, Rhea Perlman, was talking to one of the guys on the

program as she was lying over the table. She said "I have one sexually erogenous zone. Unfortunately, it is my whole body." Some of us get our stimulation in different ways. Others like to peer through windows and we call them "peeping toms."

Some of us have various ways in which we respond sexually and might be equipped by the fact of nature which accounts for the way we are. We might not have any control over that. Evidence is beginning to come to the forefront that indicates that might be true.

When I think of seeing the baby who is crippled and deformed, maybe the couple who gave birth to that baby wanted it to be perfect, but it was not. Somehow, nature dictated the opposite of that preference. So, ladies and gentlemen, let us be forward in our thinking and in our understanding.

Some of you, like myself, have been in military service. In the military service they have a procedure that is called "executive physicals." I never liked it, but I had to have it so that the doctors could ascertain whether or not I had prostate problems. The doctors still perform that test at the present time. As I have indicated to some of the people who have talked with me about this bill and amendment, I don't get excited over the term I have coined, this session, since I have read this bill. It is what we call the "booty bumpers" bill. What people do is their business. The problem is when they do it in public. We presently have indecent exposure laws on the books which cover that, but when we start making it a felony and putting someone in jail because of their preference for anal intercourse, I think we have gone just a bit too far. It might be demeaning to us, but who is being harmed? Is society being harmed? We have rules which control this. We have regulations to control sexual education in the schools. I kind of wonder about this because I have a tendency to stay up late at night and watch television. I watch Cinemax and HBO and, I tell you, if some of you who are pushing for passage of this amendment would see those programs, I guess you would want to bar those too because they are very graphic and don't leave anything to the imagination. I'm 57 years old and have been married for 29 years, but I see things on television that I never saw. I don't try to hold myself over and above anyone else in terms of making the judgment of what other people's actions should be. I draw the line when it affects me, of course. In this amendment, they want to outlaw homosexual prostitution. If anyone here is going to go to a house of homosexual prostitution, raise your hand. No one in this body is going to do that so why do we want to outlaw this particular action when we ourselves are not going to participate in it? We are making a judgment for that person out there, we do not know, who might want to go. We are saying to that person that they can't do that. I have never been to a house of prostitution in the State of Nevada. I probably missed something by not going, but I have never been. So, when I see this amendment, I wonder what is in our thinking that allows us to come forth with such language. Not only that, we say in the preamble that we want to make this public policy in the State of Nevada for the purpose of protecting the health, welfare and safety of our citizens. What does that mean? I don't know. We have legalized prostitution. A lot of people go. We tried to outlaw that in this state, but instead made it a county option. Who is going to be harmed and what is that public health question about which we are so greatly concerned? It has to be AIDS that we are talking about, a disease for which as yet there is no cure. Yet, we want to enact laws which are more restrictive, in that area, and build a bar against those individuals from coming forward. Let me just say something about AIDS. Even though I can recognize the fact that it is highest among homosexual groups, that is not the important point of the transmission of that disease. AIDS is a blood-borne disease. What does that mean? However we want to classify ourselves as human beings, there is no particular bar that says that we cannot contract that virus. I think it is bad public policy when you try to build a wall around that particular disease by increasing the penalties yet not trying to do anything relative to a cure for the disease.

Ladies and gentlemen of the Senate, I understand that in thinking along these lines we feel very strongly. When I read some of the language in this amendment, I have to ask what some of these Latin terms actually mean. I asked someone the other day what these terms mean such as cunnilingus, fellatio, etc. They told me and I said I had heard fellows in bars talking about some of this and didn't know what they meant. You want to outlaw that? My orientation has always been to look at the fairness of any issue, even though I am

Catholic. I try to understand the issue and try not to do harm, but see where harm is being done and try to correct it. Harm here, as I understand the purpose of this amendment, is a control of the virus. I gather that is what it means, but even in doing that you are not controlling the virus, you are causing the spread of the virus by putting these stiff penalties within the statute. Another thing about this amendment, you are limiting this conduct to dwelling places and similar private places. What if me and my old lady want to go camping. While camping, we might get the feeling that we want to reconstitute our marriage vows. We would be put in jail under this proposed statute. This would be classed as a misdemeanor because it does not fit within the classification we have written into this bill. So, ladies and gentlemen, when we start dealing with these questions, our imagination runs wild. Maybe we are trying to do good, but in my judgment we are doing bad. We not only have included homosexuals in this amendment, we have also included heterosexuals. I think that this is bad public policy. The other day I was driving down the street and I heard Rod Stewart on the car radio. He has a song out called "Georgia Boy." In it, he tells about how Georgia Boy was gay and how his mother's tears fell in vain when he tried to explain that he needed love like all of the rest. It was a catchy tune and I was sitting there enjoying the tune and I'm not gay. We have to be open-minded concerning these issues because they have been around for so long, either through the early churches of the world and up until this day. Since we left the magic of Merlin and entered the area of religion, this issue has been around. I don't mean to prolong this discussion, but I had to say something on this because it seems to me that we are heading the wrong way on this issue. I agree with the bill and an amendment put forth the other day. We all voted for it, even though I thought that amendment was a little bit extreme. But, to add this and to put me and my old lady in jail because we happen to go on a camping trip and engage in sex, I think that is a bit too much.

Senators Brown, Nevin and Glomb moved the previous question.

Motion carried.

The question being on the adoption of Amendment No. 679 to Senate Bill No. 466.

Senators O'Connell, Rawson and O'Donnell requested a roll call on Senator O'Connell's motion.

Roll call on Senator O'Connell's motion:

YEAS—4.

NAYS—Adler, Brown, Callister, Coffin, Glomb, Hickey, James, Lowden, McGinness, Neal, Nevin, Raggio, Rhoads, Smith, Titus, Townsend—16.

Absent—Shaffer.

The motion having failed to receive a majority, Mr. President pro Tempore declared it lost.

REMARKS FROM THE FLOOR

Senator Rawson requested that the following remarks be entered in the Journal.

I would like to make some comments concerning this issue. I suppose this is the most disappointing day that I have ever had in the Senate. It is not because of losing an issue since we win and lose issues many times during the course of a session. It is disappointing to me because we have had no really fair hearing of this issue. There has been no open discussion on the pertinent aspects of this issue. One of the tactics certainly is to obfuscate the real issues which I think has been done very well. There was a caution for us not to bring religious issues into the legislative arena. There was no reference to religious beliefs or no pressure or attempt to try to persuade anyone on the basis of any religious conviction or belief. Those issues can be powerful in their own right, but they belong to another forum, another body. There was a comment about being concerned about the feelings of someone who would be given a felony sentence. It was asked if we could imagine how

those people would feel? The aspect of the amendment specifically referred to was talking about those who willfully, wantonly act in a manner that causes them to spread the disease of AIDS. I can't believe that the same people who cried over Kim Bergalis would treat this so casually. She went to the dentist and the dentist willfully gave her AIDS and to a half dozen other patients as well. I would like to know what kind of sympathy there is for that kind of person. This amendment dealt with that. This did not deal only with sexual transmission, but with anyone who acted in any way to purposefully spread this disease.

I happened to have a blood transfusion four or five years ago, after they started testing blood for AIDS virus. For two years, I had that insecurity and regular testing to see that a fatal disease had not been transmitted with that transfusion. There is not anyone in this body, this state or this nation who can have a blood transfusion without being concerned. Seven thousand people died last year from AIDS contracted from blood which had been certified as being safe. We have a condition here which is more serious than people want to realize. I am not talking about the moral aspect of this. I have a copy of a course which was outlined on blood-borne pathogens. It was an insult to hear the definition of how we can get this through blood. The precautions I must go through in order to be able to practice dentistry are truly awesome. It is not just the cost, it is the hindrance, the time, the inconvenience and the added risk because of some of the barrier protection which has to be utilized. I don't expect that those kinds of barriers will ever be used in the practice of sex because it is not convenient to use them. They are not comfortable to wear and it is not conducive. So, we are going to continue to have a reservoir of disease which has nothing to do with the morality of these people. If you are exposed to it, you will get it.

The amendment said nothing about a person being able to select their own sexual preference. It did not do anything about restricting that. It dealt with public behavior and behavior which was dangerous to other people. I guess the worst thing of all was who was being harmed. If we are not concerned about the rest of the population, even a concern about the homosexual population would be refreshing. We have had over a million people infected with the virus. Our entire society lives under the threat of this disease. Eighty percent of the heterosexual men, in this country, will die of old age. Two percent of the homosexual men will die of old age. I am not talking about morality. I am talking about risk to individuals in whom the state has a legitimate interest. If AIDS was the cause of the loss of life, you would expect that the life expectancy of homosexual men would be 39 years. It is not, it is 57. AIDS is something spoken about and feared that is just one of a whole list of serious conditions and problems. I don't think this body is interested in the physiology, the bio-mechanics or epidemiology, but these issues have not been adequately addressed. They have not been adequately addressed because there is this feeling that it is important to be on the politically right side of this issue because it is a moral issue. In an attempt to do that, the stampede has started and now unfortunately there will be no serious consideration of any of these other issues.

GENERAL FILE AND THIRD READING

Senate Bill No. 466.

Bill read third time.

Remarks by Senators O'Connell, Adler, Neal and James.

Senator James requested that the following remarks be entered in the Journal.

SENATOR O'CONNELL:

Thank you, Mister President pro Tempore. I think it is very important that the record reflects all the comments made on this issue. However, I don't blame the Senator from Clark County for not wanting his remarks entered into the record.

I would like to note that other states have the same concern and have made the act of willfully giving AIDS to another a felony. The states which have a concern for the health and welfare of their people are: Arkansas, a felony, California, a felony! Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Virginia and Washington, a felony.

SENATOR ADLER:

Thank you, Mister President pro Tempore. I have spoken with the chairman of the Judiciary Committee and it is my intent to have him amend one of my bill drafts to place language in it to be considered at the earliest possible date in that committee. I would like to say that I, for one, do take the whole idea of transmittable diseases very seriously and the comments made by the chairman of the Human Resources Committee very seriously.

SENATOR NEAL:

Thank you, Mister President pro Tempore. As I understand the measure we are going to consider today, sodomy would still be a felony in this state. The only difference is that you will not have to break anyone's door down in order to arrest them for this. Since the comment has been made concerning my remarks, I change my statement and would like to have my remarks entered into the Journal. I am not afraid of what I said.

SENATOR JAMES:

Thank you, Mr. President pro Tempore. I have reserved saying much about this bill until now. Because of the lateness of the hour and the fact that you have already heard a great deal about the bill, I am going to keep my remarks brief.

The bill came out of the Senate Judiciary Committee without a recommendation. I feel obligated, indeed compelled, to share with this body just what the bill does do and what it does not do, so that the record is abundantly clear. Although the bill came from the Senate Judiciary Committee without a recommendation, I would recommend this measure, and I am going to vote for it. The bill does not change the laws in this state regarding sexual assault or rape. For these offenses, you receive life imprisonment. The bill does not change the laws in this state involving sex with children. There are something like 20 crimes in this category for which you can receive one year to life imprisonment without the possibility of parole. The bill does not change the laws in this state regarding open and gross lewdness. This is a felony for which you receive up to six years imprisonment. The bill does not change the laws of this state regarding indecent exposure, for which you receive six months in jail to six years in prison. The bill does not change the laws of this state involving lewdness with a minor, for which you can receive one to ten years in prison. And as amended, this bill makes it a felony to commit any of these acts stated in the bill, in public. To commit these acts in a public place, the sentence is one to six years in prison. And, public means public. It means in parks, schools, public restrooms, theaters and wherever anyone who does not want to be exposed to this conduct might be exposed to this conduct. If you engage in that conduct, in the State of Nevada, we will throw the book at you. That's the law.

The bill does one thing and one thing only. It removes the criminal sanction for acts between consenting adults in the privacy of their bedrooms. They are no longer, if this bill passes, going to be felons. If some member of this body's child grew up and decided to choose this lifestyle, then they would not be engaging in felony conduct.

The issue here is not gay rights. It is not morality, nor is it the criminal law. The issue is freedom. The question is whether government can go this far into the homes and private lives of the people of this state. This bill says "no, this is where we draw the line." Because if we can do this and we can justify this kind of intrusion of the government into private lives, then what else can be outlawed on the same basis? Can it be someone's religious practices, someone's private practices of any kind? If we can justify this with whatever reason, we can justify other laws along the same lines.

The arguments have been made that there is a slippery slope here, that we are doing or undoing something which is going to result in a moral decline or more laws which are going to change the moral placements and pillars of our society. With due respect, that argument doesn't wash. If we find it necessary to have a law which makes it a felony to do anything that we do not want our children exposed to, we'd have to outlaw a lot of things. We'd have to start with television, as the senator from southern Nevada so aptly stated. You probably could not watch just about anything on TV nowadays except for what is on the public broadcasting system, channel 5 in the north and channel 10 in Las Vegas.

There is an overriding issue here and you have heard a lot about it. That issue is the health issue pertaining to AIDS. This is an overriding concern because the disease of

AIDS, the terrible scourge of AIDS which has come into our society in the last 15 years, does not know any bounds. It doesn't care what your sexual preference is. It doesn't care what your race is. It doesn't care what your socio-economic status is. It affects everyone. It is the ninth leading cause of death in the United States, the third leading cause of death among people of ages 25 through 44, the sixth leading cause of death of persons 15 through 24 years of age and women between 25 and 44 years. Of black and hispanic women, they make up 17 percent of the female population, but a full 73 percent of women with AIDS. Over 80 percent of HIV infected children under the age of 13 acquired the disease from their mothers. Between 24 and 33 percent of children born to HIV infected mothers will become infected with AIDS. And, the statistic is that homosexual and bisexual AIDS cases, as a percentage of all cases, is declining. Heterosexual transmission in cases of AIDS is on the rise. In other countries, in African countries, AIDS is running like wildfire among the heterosexual population. We do nothing to help stop the AIDS crisis or to deal with this terrible health care concern by criminalizing the conduct of homosexuals. Mr. President pro Tempore, God only knows why AIDS began in this country, unlike in other countries, among the gay population. But, it is spreading outside of that population very fast.

Now, the suggestion has been made by some people that this is a bill which comes out of left field and that the supporters of this measure come out of left field. I want to read you a list of the groups and the people who support this measure. They are: The Nevada Womens Lobby, the Nevada Nurses Association, the National Association of Social Workers, the Nevada Attorneys for Criminal Justice, the Washoe County District Health Department, numerous physicians and health officials who testified before the committee, numerous members of the clergy, former Governor Grant Sawyer and the Las Vegas Review Journal, to name a few. This is not something out of left field. This is not something which is ahead of its time in Nevada, it is long overdue.

Every member of this body has to vote his or her conscience. But I want to tell you that when you vote your conscience, if you vote for this bill, you are not endorsing a lifestyle, you are not endorsing a sexual practice, you are endorsing freedom, tolerance and understanding. That is what this country stands for.

The distinguished senior senator from southern Nevada has admonished us, numerous times through this session, not to do something here just because of how it is going to look on a campaign brochure. Well, I plead with you today to not do something here today because of how it may look on someone's campaign literature. You have to do what your heart tells you is right.

Mr. President pro Tempore, I am going to conclude with the remark that every morning you lead us in the pledge of allegiance to the flag and we all pledge "liberty and justice for all." Liberty and justice for all. Well, my fellow senators, "all" means "all." It does not mean "some." It does not mean just those with whom we happen to agree or who happen to live their lives in the way that we do. It means all. It means that everyone is entitled to the basic guarantees and basic liberties. As you cast your vote on this measure, you have to remember that the next time it may be you who believes in something or wishes to live your life in a way the majority of people do not agree with. I ask you to keep these things in mind as we cast our votes.

Roll call on Senate Bill No. 466:

YEAS—14.

NAYS—Hickey, Jacobsen, McGinness, O'Connell, O'Donnell, Rawson—6.

Absent—Shaffer.

Senate Bill No. 466 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 93.

Bill read third time.

MINUTES OF MEETING
ASSEMBLY COMMITTEE ON JUDICIARY

Sixty-seventh Session
June 10, 1993

The Assembly Committee on Judiciary was called to order by Chairman Robert M. Sader at 8:00 a.m., June 10, 1993, in Room 119 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda, Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Mr. Robert M. Sader, Chairman
Mr. Gene T. Porter, Vice Chairman
Mr. Bernie Anderson
Mr. John C. Bonaventura
Mr. John C. Carpenter
Mr. Tom Collins, Jr.
Mr. James A. Gibbons
Mr. William D. Gregory
Mr. William A. Petrak
Mr. John B. Regan
Mr. Scott Scherer
Mr. Michael A. Schneider
Ms. Stephanie Smith
Mr. Louis A. Toomin

COMMITTEE MEMBERS ABSENT:

Mr. Ken L. Haller

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Ms. Denice Miller, Research Analyst

OTHERS PRESENT:

Mr. Laurance M. Hyde, Jr., Professor Emeritus, the National
Judicial College, University of Nevada
Dr. Jerry Cade, Co-director, HIV Services,
University Medical Center
Dr. Lisa Bechtel, Co-director, HIV Services, University
Medical Center
Dr. Trudy Larson, Pediatric Infectious Disease Specialist
Ms. Myra A. Sheehan, Attorney

Mr. Kevin M. Kelly, Nevada Trial Lawyers Association and Nevada Attorneys for Criminal Justice
Ms. Alicia Smalley, Member of the Board of Directors, National Association of Social Workers
Dr. Dean Pierce, President, Nevada Chapter of the National Association of Social Workers and Director, University of Nevada Reno School of Social Workers
Mr. Larry Hyde, American Civil Liberties Union of Nevada
Ms. Sarah Chvilicek, Nevada Women's Lobby
Rev. Glenda Cross Dvorak
Dr. Paul Cameron, Director, Family Research Institute
Mr. Joel Hansen, Attorney
Dr. Matthew Barulich, Obstetrician Gynecologist
Ms. Ann Dankworth, Citizen
Reverend Leo Kruger, Valley Christian Fellowship Church
Mr. William R. Denney, Marriage and Family Therapist
Ms. Lucille Lusk, Nevada Coalition of Concerned Citizens
Mr. Bruce Bogaert, Businessman

After roll call, Chairman Sader opened the hearing on S.B. 466.

Chairman Sader informed the Assembly Judiciary Committee the prime sponsor of Senate Bill No. 466 was Senator Lori Lipman Brown who had introduced the bill to the Senate Commerce and Labor Committee. The bill had been heard before the Senate Judiciary Committee. S.B. 466 was presented before the Assembly Judiciary Committee for further testimony and committee concurrence.

SENATE BILL NO. 466.
First Reprint

Prohibits certain sexual conduct
in public.

Chairman Sader opened the hearing for testimony from the proponents of S.B. 466.

Mr. Kevin M. Kelly, Attorney, representing the Nevada Trial Lawyers Association as well as the Nevada Attorneys for Criminal Justice, testified in favor of the passage of S.B. 466. He stated the Nevada Constitution, under Article I, Section 1, indicated all men, by nature, were free and equal and had certain inalienable rights. According to Mr. Kelly, when this amendment had been adopted and discussed before the legislature in 1863, they alluded to the phrase "all men, by nature, were independent". At the time, Mr. North, who had been a member of

the Constitutional Convention, had declared his intent to amend the locution to include the phrase "all men are by nature equal".

Mr. Kelly maintained, in the phrase, "it was to conform to the Declaration of Independence", contained in the Constitutional Convention History published by the Legislative Counsel Bureau, the word "equal" was more accurate and was the equivalent to natural or civil rights. He claimed men were not independent of each other and all were equal in their rights. He noted NRS 201.190 became common law in 1911. In 1914, the Nevada Supreme Court reviewed the infamous crime against nature.

Mr. Kelly read a statement made by Justice McCarran, "...it is the contention of the petitioner that the infamous crime against nature is sonomous with sodomy as that crime was known and construed under the common law. In our judgment, it is scarcely necessary to determine whether or not the term infamous crime against nature is of similar importance or significance to the crime which under the common law was designated sodomy." Mr. Kelly continued, "Nature has provided in the male and female, the organs for the reproduction of the species. Any copulation by male, with male, or male with female other than that copulation, by and through the organs provided by nature for the reproduction of the species is an act against the order of nature and hence must of necessity be a crime against nature in as much as it is an act against nature's law."

Mr. Kelly avowed, when the aforementioned law had been enacted in 1911, it pertained to both homosexual and heterosexual persons. Married couples could not engage in any of the acts specifically prohibited under NRS 201.190, namely fellatio, cunnilingus and anal intercourse. However, in 1977 the Nevada legislature deleted that portion of the law which pertained to heterosexual behavior and prohibited homosexual behavior.

Mr. Kelly queried if the Nevada Coalition of Concerned Citizens had testified before the Nevada Legislature in 1977. He asked if the coalition had presented the same comments and arguments as presently attested to. To make his point, he altered the words contained in a flyer submitted by the coalition and deleted the word "homosexual" and inserted the term "heterosexual". He deleted the word "AIDS" and inserted the term "sexually transmitted diseases" and read the first paragraph, "The Nevada Senate voted today 14 to 1 to legalize perverting heterosexual sex acts, brushing aside all arguments about the deadly plague of sexually transmitted diseases and even ignoring the legal opinion received from its own staff that

the bill also legalized heterosexual prostitution. Can you envision the type of tourist attraction Nevada will become if this is allowed to stand."

Mr. Kelly stressed S.B. 466 addressed the issue of privacy. He reminded the committee of the debate several weeks ago which pertained to the removal of three judge panels during death hearings at which time the federal court Rule 29A had been discussed. He recalled Mr. Anderson had made the comment the decision was a jury function. Mr. Kelly's comment to Mr. Anderson at the time had been, "Mr. Anderson, I hope you recall and keep that same argument when voting on this bill". His point was Mr. Anderson had been consistent and had voted his conscience.

Mr. Kelly advised S.B. 466 was not an education bill as addressed under the Sexual Education Act, NRS 389.065, which required the counties and districts to decide these concerns. He stated this was not a brothel bill as alluded to under NRS 244.345 which advised counties as to the licensing brothels. S.B. 466 was not a public health issue. He emphasized the bill addressed the right to privacy.

Mr. Kelly went on to state S.B. 466 would not affect the children of the state as there were seven statutes which administered penalties for these crimes ranging from life in prison to gross misdemeanors for sexual assaults committed toward minors, solicitation of minors and indecent or obscene exposure. S.B. 466 would not affect cases of unconsenting adults which were addressed under sexual assault charges and carried penalties of life in prison.

Ms. Myra A. Sheehan, attorney, avouched her support for the passage of S.B. 466. She familiarized the committee with the fact, until January 1993, she had owned a law practice limited to the representation of low income, battered women and children. She had chosen to limit her law practice to domestic law because of her devotion to the laws which affected the families and children of Nevada. She affirmed she did not represent any identifiable interest groups and chose to testify on behalf of those individuals who were hesitant to appear before the Assembly Judiciary Committee in support of S.B. 466.

Ms. Sheehan circulated copies of written correspondence in support of S.B. 466 from The Honorable Judge Charles McGee and The Honorable Judge Scott Jordan of the Family Division of the Second Judicial District Court, Exhibit C. According to Ms.

Sheehan, both Judge McGee and Judge Jordan had requested the information be read into the record, "Letter to the Assembly on Senate Bill 466 by Charles McGee and Scott Jordan, Judges for the Family Division of the Second Judicial District Court in and for the County of Washoe. To the Honorable Robert Sader, Chair, Assembly Judiciary Committee. We support Senate Bill 466 which repeals NRS 201.190. The current statute makes certain acts "between consenting adults of the same sex" a felony, which in our judgment is both archaic and violative of the equal protection and privacy rights guaranteed by the U. S. Constitution.

"As the Supreme Court stated in Thornburgh vs. American College of Obstetricians and Gynecologists, 476 US 747, 90 L Ed 2d 779, 106 S Ct 2169 (1977), 'The concept of privacy embodies the moral fact that a person belongs to himself and not to others nor to society as a whole'."

The correspondence from judges McGee and Jordan went on to read, "The State of Nevada should not legislate what occurs between two consenting adults of the same sex any more than the government has a right to legislate what occurs between two consenting adults of the opposite sex. To do so would go against a long list of cases recognizing that the constitution embodies the promise of a certain private sphere of individual liberty which we kept largely beyond the reach of government.

"The Supreme Court of Wisconsin vs. Yoder, 406 US 205, 32 L Ed 2d 15, 92 S Ct 1526 (1972), upheld the right of the Amish to remove their children from formal schooling because it threatened their way of life. The court declared 'a way of life that is odd or even erratic but interferes with no rights or interest of others is not to be condemned because it is different'."

The judges correspondence stated further, "NRS 205.190 is not only unenforceable, but it is clearly discriminatory. This state should not punish private behavior because of intolerance or bigotry. The Supreme Court in Palmore vs. Sidoti, 466 US 429, 80 L ed 2d 421, 104 S Ct 1879 (1984), stated 'The Constitution cannot control such prejudices but neither can it tolerate them. Private biases may be outside the reach of the law but the law cannot directly or indirectly give them effect'. The law which is one of selective application must be supported by a neutral and legitimate interest. It must be something more than a habitual dislike for or ignorance of the disfavored group. We cannot identify any such interest justifying this law."

Ms. Sheehan concluded reading the letter from the judges, "NRS 201.190 reaches far beyond what the government has a right to regulate and has invaded the privacy of citizens of this state. It is time that legislature took steps to abolish the law which is not enforced, is not enforceable and which if it were enforced may very well be unconstitutional. We support S.B. 466 and believe that NRS 201.190 should be totally repealed. Please help keep Nevada a safe harbor for individualists. Respectfully submitted, Judge Charles McGee and Judge Scott Jordan."

Ms. Sheehan explained, as a family law practitioner, she had experienced the negative effects of NRS 201.190, the crimes against nature law. She asserted clients had approached her exhibiting the fear of the loss of their children or loss of the right to have meaningful relationships with their children because spouses had threatened them with the prevailing law. Many of these citizens had compromised their rights in fear this oppressive law might be used against them during custody or divorce proceedings. She noted there had been instances where individuals had compromised their rights to freedom of association in order to maintain relationships with their children. She alleged she had seen the law used to intimidate people into making decisions which might not have been in the best interest of the children. The prevailing law was used to hurt and humiliate good people. Ms. Sheehan asserted NRS 201.190 was so oppressive and misused it denied individuals their rightful day in court.

Ms. Sheehan alleged to her belief the opponents to S.B. 466 believed there was a homosexual agenda, or a conspiracy to promote the homosexual lifestyle. She alleged, homophobia, like racism and sexism, pervaded society. Her argument centered around the fact homosexuality was not illegal in Nevada nor in any state in the union. She emphasized NRS 201.190 did not make homosexuality illegal.

Ms. Sheehan asserted S.B. 466 would make three acts illegal for homosexuals to commit and underscored the fact homosexuality was not illegal. A law was in existence which punished individuals who committed unlawful acts against persons as the result of their perceived or actual sexual orientations. She stressed sexual orientation was protected by law. Ms. Sheehan claimed NRS 201.190 had addressed the acts of consenting adults of the same sex and was clearly a law which targeted homosexuals. She contended laws which selectively applied to particular groups of people must be supported by neutral and legitimate interests. She posed the question, what neutral and legitimate interest was

there to legislate against the intimate and private relationship between two consenting adults of the same sex.

Ms. Sheehan pronounced there were amendments attached to S.B. 466 which insulated those legislators who were knowledgeable of the fact NRS 201.190 was an unenforceable and discriminatory law. She alleged amendments had been proposed to placate the opposition. The bottom line was S.B. 466 would abolish a law which was not enforced, was unenforceable, and was unconstitutional. It was her belief society had every right to encourage citizens to follow particular traditions in expressing affection for one another in public and there were laws which addressed those issues.

As Ms. Sheehan understood, the opposition argued S.B. 466 would permit the instruction of the homosexual lifestyle in schools, it would promote the spread of AIDS and the bill would open the doors for homosexual brothels. She emphatically declared this was not the intent of S.B. 466. There were no legally sound arguments to support this and no evidence to prove the hypotheses. She believed the opposition promoted an agenda of fear, intolerance, misunderstanding and hatred toward a lifestyle which was misunderstood.

Nevada had always respected the rights of individuals and had not allowed other states or individuals to dictate morality. Ms. Sheehan contended S.B. 466 would accomplish the goals which would make it unlawful to commit certain acts against minors, it would protect prisoners from those activities which could spread the AIDS virus, and the bill would repeal the current law which was neither legally sound nor enforceable. She encouraged support for the passage of S.B. 466.

Dr. Jerry Cade stated he was the co-founder of the University Medical Center AIDS inpatient and outpatient clinics and ward. He apprised the committee he was also the codirector of HIV Services at the University Medical Center and worked directly with Dr. Lisa Bechtel. He was also a member of the Governor's Task Force on AIDS and cochairperson on AIDS and AIDS discrimination and worked closely with Dr. Trudy Larson. He certified his support of the passage of S.B. 466. Dr. Cade distributed three copies of correspondences to the Assembly Judiciary Committee, Exhibit D.

Dr. Cade read one paragraph from the correspondence initiated by Mr. David E. Rice, Chief Health Officer, District Health Office, Reno, Washoe County and Sparks which read, "I would like to express the support of the Washoe County Health District for the

passage of S.B. 466 which would repeal the sodomy law. The role of the District Health Department is not legislating morality. Our mission is to promote health and prevent the spread of disease. The sodomy law is a barrier to those of us who are fighting the spread of AIDS in Nevada." (Exhibit D).

Dr. Cade recited a portion of correspondence received from Dr. Otto Ravenholt, Chief Health Officer, Clark County Health District, which read, "I support the passage of S.B. 466, which would amend the sodomy law to forbid sex acts in public but no longer govern acts in private between consenting adults." (Exhibit D). Dr. Cade summarized Dr. Ravenholt regarded the current law as a barrier to reporting and tracking the HIV disease in the community.

The third correspondence featured by Dr. Cade had been received from Former Governor Grant Sawyer which read as follows, "I am familiar with S.B. 466. Please be advised that I fully support the bill as modified. It appears to me that the facilitation, care and treatment of HIV patients is alone sufficient reason for its passage."

Dr. Cade professed for eight years he had the privilege of caring for the men and women in Nevada who had contracted the AIDS virus. He related his life had been deepened and enriched by his patients' examples of courage, dignity and grace in the face of their mortality and added humanity could learn from the examples set by these individuals.

Dr. Cade informed the committee the state of Nevada had one of the highest incidences of AIDS of any state in the nation. It was important to do everything possible to prevent further spread of this sexually transmitted plague.

Several years ago the Governor had appointed a panel of experts to study the AIDS crisis in Nevada and present recommendations in an effort to prevent the spread of the virus. According to Dr. Cade, he and Dr. Trudy Larson had cochaired the subcommittee which addressed AIDS discrimination and its impact on the spread of the disease. He maintained discrimination against individuals with HIV hampered those individuals from being tested and seeking early medical intervention.

Dr. Cade reported the AIDS subcommittee had developed an anti-discrimination policy which had concluded with the recommendation Nevada's sodomy statute should be repealed. According to Dr. Cade, almost every group which testified before the task force cited the current law presented ample reasons for

HIV-infected individuals not to test for HIV contraction. The law also encumbered health care providers in reporting those HIV anti-body positive individuals to the appropriate health care authorities.

Dr. Cade recounted the AIDS task force had adopted this policy on a vote of nine to zero without dissent. The membership of the task force included Dr. Allen Busby from the State Board of Health; Dr. Vicky Carwein, Dean of the College of Health Sciences at the University of Nevada Las Vegas; Mr. Larry Matheis, Executive Director of the Nevada State Medical Association; Mr. David Parks; Senator John Vergeils; Dr. Patrick Harper, from the dental community; Natalie Silva; and Dr. Otto Ravenholt, Chief Health Officer for the Clark County Health District along with Dr. Larson and Dr. Cade. He stated those individuals who had been charged with dealing with this crisis and protecting the public health believed the current law stood in the way of good public health policy and medical intervention.

Dr. Cade continued by emphasizing AIDS was not just a gay disease. HIV was a virus which had experienced its genesis by first attacking the gay community in this country. Worldwide, he asserted, the disease was more prevalent among heterosexuals. According to Dr. Cade, in this country, the highest percentage of increase in new AIDS cases were among women and children. He emphasized the crisis could be addressed in Nevada by passing S.B. 466.

Dr. Cade concluded his testimony with a quotation from Dr. C. Everett Koop, former Surgeon General of the United States, "At the beginning of the AIDS epidemic many Americans had little sympathy for people with AIDS. The feeling was that somehow people from certain groups deserved their illness. Let us put those feelings behind us. We are fighting a disease, not people. The country must face this epidemic as a unified society. We must prevent the spread of AIDS while at the same time preserving our humanity and intimacy.", Exhibit D.

Dr. Lisa Bechtel, Codirector for HIV Services, University Medical Center, declared she also represented the Community Health Centers of Southern Nevada as well as the U.S. Public Health Services facility. She informed the committee she had not only served metropolitan Las Vegas but had worked as a family physician in Lincoln County. She maintained the passage of S.B. 466 would have a direct affect on health care in Nevada. Nevadans fiercely believed in their independence and right to privacy. She asserted, to effectively educate individuals in

the activity of safer sex and family reproductive issues, there must be a safe and comfortable environment in which to do so.

Dr. Bechtel alleged the same-sex sodomy laws which were currently in existence were not a boon to public health but were direct barriers to the public's best interest as these statutes did not create an environment in which people felt comfortable disclosing their sexual practices. She supported the passage of S.B. 466 in the belief health care providers would further the efforts to educate individuals. It would provide an environment where individuals could feel comfortable disclosing their sexual practices and would be better educated in disease prevention.

Dr. Trudy Larson, specialist in pediatric infectious diseases, affirmed her support of S.B. 466. She apprised the committee members she had been involved in the care of AIDS patients and policy as the result of her activities with the Governor's State Advisory Task Force on AIDS. She was codirector of the Early Intervention Clinic for HIV Services in Washoe County. One of the concerns in Washoe County was the fact many individuals would not consent to being tested for HIV infection due to their fear positive test results might be reported in Nevada. She pointed out, by being HIV positive, it could imply they had engaged in illegal activities.

It was Dr. Larson's understanding many Washoe County citizens had traveled to other states to test for HIV infection. This situation had two major detrimental effects. Washoe County would not be able to offer HIV-infected individuals direct services which was important because early intervention, medication and follow up treatment might prolong and improve the quality of life. Secondly, the fact HIV-infected individuals were tested in other states made it difficult to address the issue of HIV transmission in Nevada. The health care industry was not able to receive reported contacts as an effort to reduce the spread of HIV infection. According to Dr. Larson, this was a direct result of fear HIV-infected individuals had engaged in illegal activities.

Dr. Larson alluded to the fact there would be a financial impact with the passage of S.B. 466. The majority of the federal funds received in the state were based on the number of reported HIV and AIDS cases. When individuals tested for HIV infection outside the state, Nevada could not claim the cases for financial reimbursement. This situation did not assist the state in supporting the AIDS prevention programs.

Dr. Larson informed the committee HIV infection was spread by behaviors and not by people who had sexual preferences. The major risk of contracting HIV and AIDS was due to multiple sexual partners. She insisted it did not matter whether these activities involved the same sex or opposite sexual partners. She noted one of the fastest growing HIV infected groups were women and their children. Most of the sexually transmitted diseases in the country were spread by heterosexual contacts. She stressed, in order to address the issue of AIDS in Nevada, the barriers must be reduced. Her contention was the passage of S.B. 466 would improve the health care industry's ability to disclose and track the disease. Passage of the bill would increase the competence, maintain confidentiality, and improve services to HIV infected individuals in Nevada.

Reverend Glenda Cross Dvorak, Director, Bridges in Consciousness, testified in favor of S.B. 466. She stated her ministry supported individuals who dealt with catastrophic illnesses. She addressed the issue of gay civil rights and quoted Lt. Terry Thorn, "Prejudice can never be validated by majority consent."

Ms. Alicia Smalley, social worker and rehabilitation counselor, affirmed her support of S.B. 466. She alleged she was on the Board of Directors for the National Association of Social Workers (NASW) who were in favor of the passage of S.B. 466, Exhibit E.

Dr. Dean Pierce, Director, School of Social Work, University of Nevada Reno, stated he was president-elect of the Nevada Chapter of the National Association of Social Workers. He testified in support of S.B. 466, Exhibit F. He asked the Assembly Judiciary Committee members to reexamine the existing Nevada statute which did not grant homosexuals the same measure of privacy as it did heterosexuals.

Dr. Pierce reported, historically, the profession of social work had opposed discrimination against all groups, including homosexuals. The National Association of Social Workers code of ethics opposed this type of discrimination. The NASW's code of ethics mandated each social worker to prevent and eliminate discrimination against any person or group on the basis of sexual orientation. To deliver on this mandate, the professional association had adopted a public policy on lesbian and gay issues. According to Dr. Pierce, this policy statement indicated NASW would support the repeal of all laws which had been enacted against consensual adult sexual activities.

Dr. Pierced continued, NASW's policy statement and code of ethics recognized that same-sex relations should be afforded the same respect as those of opposite-sex relations. NASW also affirmed all individuals were entitled to the same rights, including the right to privacy, as long as the rights of others were not infringed upon. He continued, the resolve of social workers to end such discrimination was strengthened by work done with homosexuals, especially with those individuals who had been harmed by non-acceptance and hatred.

It was of Dr. Pierce's opinion discrimination against individuals or groups was un-American. To protect such persons from discrimination did not constitute granting special privileges to them. He advised there was a fear of a homosexual agenda of which a portion of this belief was that special treatment was provided to lesbian and gay individuals. As a social worker, he was more concerned with the anti-homosexual agenda which he maintained had been designed to reinforce special discriminatory treatment and hatred toward homosexuality. Dr. Pierce believed the anti-homosexual agenda, if any existed, promoted hatred. He sought the same treatment for homosexuals as was afforded all Americans. He believed citizens would not side with hatred but with homosexuality. The American agenda had always focused on the decent and fair treatment for all and was the basis for the profession of social work. The proposal would extend fair treatment to homosexuals. He urged support of S.B. 466 and an end to the discrimination against homosexuals.

Mr. Michael Quackenbush, member, Nevada Chapter of the National Association of Social Workers, supported the passage S.B. 466.

Ms. Smalley requested to add further testimony to her position in support of S.B. 466, Exhibit E. She pronounced human behaviors over the eon had been defined as deviant as exemplified in the act of masturbation, sexual relationships between unmarried people, birth control, etc. The social definitions of homosexuality had also varied with the passage of time. She emphasized homosexuality was no longer viewed as a pathological concern by the mental health profession.

Ms. Sarah Chvilicek, Chairwoman, Nevada Women's Lobby, Northern Division, spoke in support of S.B. 466, Exhibit G. According to Ms. Chvilicek, the Nevada Women's Lobby had been established as a grassroots voice for the people of Nevada. She attested the Nevada Women's Lobby actively supported and lobbied for the rights of all people. It was her contention NRS 201.195 did not provide equal representation under the law. According to Ms.

Chvilicek, the passage of S.B. 466 would send a clear message that all people would be guaranteed their rights were protected and upheld under the constitution. She professed the Nevada Women's Lobby did not discuss the question of values or morals on the issue of homosexuality but addressed the question of constitutionality in the present law. Ms. Chvilicek urged passage of S.B. 466.

Ms. Chvilicek submitted a composite of letters and articles written in support of S.B. 466, Exhibit G. She expressed her desire to have the list of the names of the submitters to be part of the record: Former Nevada Governor Grant Sawyer, Jean Ford, UNR President Joe Crowley, American Association of University Women, Nevada Women's Political Caucus, Community Counseling Center, Nevadans for Accountable government, UNLV Students for Choice, Planned Parenthood of Northern Nevada, NOW-Southern Nevada Chapter, Aid for AIDS of Nevada, Delta Lambda Phi Fraternity, Alicia Montgomery, Virginia Uribe, Judy Phoenix, Dr. Jerry Cade, Gudrun Fonfa, Raven Fonfa, Lorraine Koblick, Holly Wilson, Myra Foifer.

Mr. Larry Hyde represented the American Civil Liberties Union of Nevada who firmly supported passage of S.B. 466. He stated he was a twenty-eight year member of the Nevada Bar and was professor emeritus at the National Judicial College. He elucidated S.B. 466 addressed the right to privacy and the private sexual practices of individuals. According to Mr. Hyde, this was not a special interest bill. Passage of S.B. 466 would benefit everyone by setting limits on governmental interference in private lives. He professed he looked to his church for moral and spiritual guidance and not to the Nevada Revised Statutes.

At this time, Chairman Sader asked members of the Assembly Judiciary Committee to present their questions to those testifiers who had presented their testimonies.

Mr. Carpenter directed his concern to Ms. Sheehan and addressed her comment which alluded to the fact she believed NRS 201.190 was unconstitutional. He asked if Ms. Sheehan had considered challenging the current law before the Supreme Court to ascertain its constitutionality. In reply, Ms. Sheehan noted she practiced domestic law which did not address the criminal aspects of NRS 201.190.

Mr. Kelly interjected and informed Mr. Carpenter there had been a petition where an individual had been charged under the current statute. The constitutionality of NRS 201.190 had been

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challenged in the Nevada Supreme Court. According to Mr. Kelly, the referenced case had been dismissed and the State of Nevada had reduced the charges. Mr. Sader ascertained there had not been an adjudication of the issue as yet.

Ms. Sheehan added it was difficult to bring forward these types of actions forward as they were often reduced by the courts. She stated this was not an action where someone had been charged and the charges were later reduced. She maintained this was the reason the law remained unenforceable.

There being no further questions presented to the proponents of S.B. 466 by the Assembly Judiciary Committee members, Chairman Sader opened the hearing for testimony from the opponents of the bill.

Dr. Paul Cameron, Chairman, Family Research Institute, testified in opposition to the passage of S.B. 466. According to Dr. Cameron, Judge Brandise had addressed the issue of homosexuality during the period of the 1910's through the 1930's. At that time, every state had an anti-sodomy law. The popular thought then was heterosexuality was required for procreation.

Homosexuality, according to Dr. Cameron, was worthless from a social standpoint as it did nothing to contribute to the populace. He alleged, during the 1940's, homosexuality had been debated. It had been decided it was appropriate to discriminate against homosexuals because the activity had been declared worthless. During the 1940's, according to Dr. Cameron, the renown researcher, Mr. Kinsey had interviewed homosexuals regarding their behavior which was the basis for the earlier data on homosexuality. In 1961, Illinois had been the first state to rescind the anti-sodomy law. The question presented at that time, Dr. Cameron recounted, was should society discriminate against activities which were considered worthless from a social standpoint.

Dr. Cameron presented the issue as to whether worthless activities were socially dangerous. He professed he would present evidence homosexual activities were not only worthless to society but were dangerous and costly to the participants and the populace.

Dr. Cameron displayed copies of the report he published titled The Homosexual Lifespan, Exhibit H. To emphasize his credibility, he informed the committee members he had been the first scientist to document statistics on the effects of second-hand tobacco smoke and had studied epidemiological concerns for

the better part of his career. To briefly clarify the science of epidemiology, he said researchers studied the relationship between food, exercise or mannerisms and the effects they might have on longevity.

According to Dr. Cameron, researchers from the Family Research Institute had compiled information from the obituary columns in the "Washington Post" and "Oregonian" newspapers. In his report, Exhibit H, old age was considered to be over 65 years of age. The studies revealed married men had a median age at death of 75 years and 80 percent attained old age. Divorced or males who had never married had a life span of 57 years. Married women had a median age of 79 years and 85 percent attained old age. Divorced women had a median life span of 71 years and 60 percent attained old age. According to Dr. Cameron, these figures paralleled the U.S. Census Bureau data. He surmised marriage was salutary for individuals' longevity.

To determine the longevity of individuals involved in the homosexual lifestyle, Dr. Cameron pronounced researchers from the Family Research Institute had gathered information from obituaries published in homosexual publications over the previous twelve years, Exhibit H. The research data disclosed homosexual males who died of AIDS had a median age at death of 39 years and 1 percent attained old age. The reviews of medical literature reported Europe and the United States paralleled this data. In other words, the obituaries supported information obtained from medical data.

Dr. Cameron demonstrated for homosexuals who died of non-AIDS causes, the median age of death was 42 years old. Of the 140 lesbian deaths sampled, the median age of death was 45 years old. The results of the data collected revealed married women outlived married men, unmarried or divorced women outlived unmarried or divorced men, and lesbians outlived gays. Dr. Cameron pointed out the law which alluded to the fact homosexual activities were injurious to those who participated in these activities accorded with the statistics reported on heterosexuality and homosexuality. Dr. Cameron reported it appeared intravenous drug users and homosexuals had the shortest lifespans. He pointed out all other epidemiological statistics did not approach the differential in the statistics. He maintained the present law would be exceptionally useful in guiding individuals away from the homosexual lifestyle.

Dr. Cameron believed individuals who practiced useless social activities often disrupted society. To support his hypothesis, he presented two brochures. The first brochure was entitled

Child Molestation and Homosexuality, produced by the Family Research Institute, Inc., Dr. Cameron, Chairman, Exhibit H. This pamphlet outlined the relationship between homosexuality and child molestation. Dr. Cameron contended it was a fact homosexuality was involved in approximately 15 to 40 percent of all recorded child molestations in the United States. He maintained homosexuals recruited others to their lifestyle. He suggested a small minority of approximately 1 to 3 percent of the U.S. adult population accounted for a disproportionate amount of child molestations.

Dr. Cameron focused attention on the brochure entitled Violence and Homosexuality, produced by the Family Research Institute, Inc., Dr. Cameron, Chairman, Exhibit H. According to Dr. Cameron, the state of Colorado had claimed reporting AIDS cases had no effect on the number or proportion of AIDS cases and had no effect on the prevalence of AIDS in their community. In other words, Dr. Cameron maintained, there was no evidence S.B. 466 inhibited or decelerated the number of individuals with AIDS. Secondly, according to the only scientific publication based on random samples of heterosexuals and homosexuals, Dr. Cameron stated one percent of heterosexuals and 5 percent of homosexuals had admitted they had tried to infect others.

Dr. Cameron cited Mirko Grmek, History of AIDS (citation entry number 13, Exhibit H, Violence and Homosexuality). He insisted individuals who deliberately infected others were important components of every sexually-transmitted disease epidemic. He maintained the data and money spent on educating individuals on sexually transmitted diseases had fallen on deaf ears. He believed AIDS education did nothing other than fill the pockets of AIDS educators. It did not appreciably affect the spread of the disease.

Dr. Cameron explained during the 1840's when sodomy laws were being enforced, the amount of promiscuity the researcher Mr. Kinsey recorded among homosexuals was approximately one third of the homosexual promiscuity reported today. He surmised the more tolerant society was toward homosexuality, the more promiscuous homosexually-inclined individuals became. Promiscuity was the key factor in driving sexually-transmitted disease epidemics which was true with AIDS. According to Dr. Cameron, names and addresses of numerous homosexuals who had deliberately infected others was made record. He urged the committee not pass S.B. 466.

Mr. Joel Hansen, attorney for the law firm Edwards, Hale and Hansen Ltd., Las Vegas, NV, declared he had been a member of the

Nevada Bar Association for 15 years as well as a member of the Clark County Bar Association. He was also a member of the Defense Trial Lawyers of Nevada. He alleged he did not speak on behalf of these organizations although he spoke on behalf of those lawyers who did not recognize Mr. Kelly's testimony.

Mr. Hansen stated, in his testimony, Mr. Kelly had claimed he represented the views of the Nevada Trial Lawyers Association. Mr. Hansen contested this and emphasized many lawyers did not support the position taken by Mr. Kelly. As a defense trial lawyer, Mr. Hansen did not support Mr. Kelly's position and stated he spoke on behalf of those attorneys who believed decency and not decadence should be the basis for the law.

Mr. Hansen presented copies of the U.S. Supreme Court Reports, 92 L Ed 2d, 478 US 186, Michael J. Bowers, Attorney vs. Michael Hardwick, Case No. 85-140 argued March 31, 1986 and decided June 30, 1986, Exhibit I. He recapitulated proponents for the passage of S.B. 466 had quoted Justice Brandise and the case Wisconsin vs. Yoder and had maintained the United States Constitution guaranteed the right to privacy. He contested the opposition.

Mr. Hansen requested attention be focused on the highlighted sections of the case Bowers vs. Hardwick, Case No. 85-140, U.S. Supreme Court Reports, Exhibit I, commencing with page 144 (second page). He recapped this case had involved a homosexual who had been charged with committing sodomy in the state of Georgia. The footnote read, "The only claim properly before the Court, therefore, is Harwick's challenge to the Georgia statute as applied to consensual homosexual sodomy". Mr. Hansen alleged the issue here was whether or not it was illegal for states to prevent homosexual sodomy under the United States Constitution.

Mr. Hansen addressed page 145 (page 3, second column), Exhibit I, which read, "...disagreement with the Court of Appeals and with the respondent that the Courts' prior cases have construed the Constitution to confer a right of privacy that extends to homosexual sodomy and for all intents and purposes have decided this case." In other words, according to Mr. Hansen, the lower court had reviewed the privacy cases of the United State Supreme Court and determined it conferred the right of privacy on homosexual acts. The Supreme Court of the United States had determined the issues pertained to child rearing, education, family relationships, procreation, marriage, etc.

Mr. Hansen alluded to Page 146 (page 4), Exhibit I, which read, "Precedent aside, however, respondent would have us announce, as

the Court of Appeals did, a fundamental right to engage in homosexual sodomy." In other words, the court brushed aside the privacy argument and said no. According to Mr. Hansen, there was no such right to commit sodomy in private or in public.

Mr. Hansen addressed Exhibit I, Page 146 (page 4, second column) noting this was a fundamental right. The insert read, "implicit in the concept of ordered liberty," or was "deeply rooted in this Nation's history and tradition." His contention was there was no such thing. As the U.S. Supreme Court Reports cited, when the Fourteenth Amendment was ratified, all but five of the thirty-seven states had anti-sodomy laws. Until 1961, as stated later in the case, all the states had laws prohibiting sodomy.

Mr. Hansen read the entry contained on page 148 (page 6), Exhibit I, which read, "Against this background, to claim that a right to engage in such conduct is 'deeply rooted in this nation's history and tradition' or 'implicit in the concept of ordered liberty' is, at best, facetious."

Mr. Hansen contended the United States Supreme Court cases presented before the Assembly Judiciary Committee by Mr. Kelly and the other two attorneys had been facetious. He stated the argument homosexuals had a right to privacy protected by the United States Constitution was misleading. He maintained attorneys should cite controlling law and emphasized the aforementioned attorneys had left out the most important case heard in the United States on this issue. He alleged the proponents for S.B. 466 failed to present the whole truth.

Referencing earlier testimony, Mr. Hansen insisted a professor of constitutional law had no excuse to present such testimony in support of the bill because the Bowers vs. Harwick case which supported Mr. Hansen's presentation had been easily researched and retrieved. He referenced Exhibit I, page 149 (page 7), where the U.S. Supreme Court addressed the right of privacy, which read, "otherwise illegal conduct is not always immunized whenever it occurs in the home. Victimless crimes, such as the possession and use of illegal drugs, do not escape the law where they are committed at home." According to Mr. Hansen, victimless crimes such as the possession and use of illegal drugs, did not escape the law even when practiced at home. The Supreme Court did not condone the privacy of sodomy, according to Mr. Hansen.

Mr. Hansen maintained the term "legislating morality" meant individuals could not be forced in becoming moral. He alleged all laws were based on someone's conception of morality and this

was what the U.S. Supreme Court case decided as referenced on page 149 (page 7), Exhibit I, [4] "Even if the conduct at issue here is not a fundamental right, respondent asserts that there must be a rational basis for the law and that there is none in this case other than the presumed belief of a majority of the electorate in Georgia that homosexual sodomy is immoral and unacceptable. This is said to be an inadequate rationale to support the law. The law, however, is constantly based on notions of morality, and if all laws representing essentially moral choices are to be invalidated under the Due Process Clause, the courts will be very busy indeed. Even respondent makes no such claim, but insists that majority sentiments about the morality of homosexuality should be declared inadequate. We do not agree, and are unpersuaded that the sodomy laws of some 25 States should be invalidated on this basis."

Mr. Hansen pointed out the U.S. Supreme Court had decided the rational basis for the law had been based on the fact the majority of the people in the United States believed homosexuality was immoral and improper behavior. He alluded to the material titled Separate Opinions, page 149 (page 7), Exhibit I, which reported the laws against homosexual sodomy dated back to the Roman Era and had been a consistent part of civilized society since ancient times.

Mr. Hansen stated the U.S. Supreme Court had destroyed the argument which supported privacy. He contended there was no such right. The case referenced had confirmed there was no constitutional right of privacy to commit sodomy or to be a sodomite. He maintained there had to be a rational basis for a law to support a constitutional challenge. He referenced the brochure entitled Medical Consequences of What Homosexuals Do, Exhibit I, produced by Family Research Institute, Inc. by Dr. Paul Cameron, Chairman. He directed attention to the rational basis for the current law which outlawed sodomy. In addition to what the U.S. Supreme Court had determined on the matter of irrational basis, he alleged here was a rational basis which proved homosexual activities were high risk behaviors which spread disease to those who engaged in the practice as well as to others.

To further support his testimony, Mr. Hansen used the analogy of the use of intravenous drugs which was done in private and was considered a victimless crime. He asked if it was appropriate to consider the elimination of drug laws because individuals were afraid to be tested for AIDS as they might be determined to be drug users. The answer to this query, he stated, was emphatically no. He maintained the laws were needed to protect

society from the spread of disease. He believed it was the height of hypocrisy for Mr. Kelly to allege people would not come forward and submit to AIDS testing because they were afraid they might be prosecuted. Mr. Hansen recapped a case in which Mr. Kelly had been an active participant.

In conclusion, Mr. Hansen asserted there was a homosexual agenda and the first item on this agenda was to repeal the sodomy law. In the states of New Jersey and Hawaii, laws had been passed which prohibited discrimination in hiring and firing employees based on sexual orientation. He alleged a law had been passed in Hawaii where employers could not publish material which might be determined discriminatory toward homosexuals. He went on to pronounce homosexuals wanted to make adoption and marriage among homosexuals legal. Homosexuals wanted a gay curriculum in the schools and legalize multi-partner unions where several individuals would get married. He maintained homosexuals wanted to legalize pedophilia and require the Boy Scouts of America to accept gays and homosexuals into the organization and admit homosexuals as scout leaders.

Mr. Hansen contended homosexuals wanted their rights but were unwilling to respect the rights of others. He believed homosexuals wanted to take away the rights of others for their right of association while demanding respectability and legality and force others to accept their pervert practices. He alleged homosexuals wanted to recruit children into the homosexual lifestyle.

In closing, Mr. Hansen read an insert from the "Gay Revolutionary", written by Michael Swift which had been printed in the Congressional Record, Exhibit I, entitled "Homosexual Activist Outlines Goals of Homosexual Movement", "We shall sodomize your sons, emblems of your feeble masculinity, of your shallow dreams and vulgar lies. We shall seduce them in your schools, in your dormitories, in your gymnasiums, in your locker rooms, in your sports arenas, in your seminaries, in your youth groups, in your movie theater bathrooms, in your army bunkhouses, in your truck stops, in your all-male clubs, in your houses of Congress, wherever men are with men together. Your sons shall become our minions and do our bidding. They will be recast in our image. They will come to crave and adore us".

Mr. Hansen asked S.B. 466 not be passed. He claimed the current law was not enforced in such a way as to interfere with private activities, although if passed, S.B. 466 would place a stamp of approval on homosexual activities. He alleged they would not be able to prevent homosexual bathhouses and homosexual houses of

prostitution nor would citizens be able to prevent homosexuals from teaching their curriculum in public schools, etc.

Dr. Mathew Barulich, Board Certified Obstetrician/Gynecologist, testified in opposition to the passage of S.B. 446. He explained he would deliver his testimony based on a scientific and medical perspective. According to Dr. Barulich, understanding the act of sodomy required knowledge of the anatomy and physiology of the lower digestive and reproductive tracks. He circulated copies of a handout, Exhibit J, taken from the Ham Textbook of Histology, entitled "The Vagina" and the LIBA Digestive System Netter, entitled "Rectum".

Dr. Barulich made reference to the handout titled, "The Vagina", Exhibit J. He stated the vagina consisted of stratified squamous epithelium which meant there were multiple layers of cells, one on top of another, which served a protective function. These layers were 20 to 30 cells thick and were similar to the skin and clearly designed for the friction of intercourse. He explained the body's defense cells were under the multiple layers of cells.

According to Dr. Barulich, the rectum pictured on the subsequent handout titled "Rectum", Exhibit J, did not have multiple layers but only one cell layer of thickness. These cells were called goblet cells; directly below each of these cells were the bodies' defense cells called macrophages and lymphocytes. It was important to know macrophages and T-4 lymphocytes were where the HIV and AIDS virus must enter to replicate and infect individuals. These cells were only one cell away from any object in the rectum. He expounded and stated any object in the vagina was 20 to 30 cells away from these same cells.

Dr. Barulich informed the committee when individuals put a penis, tongue or other object into the lower intestinal tract, they were placing that part of their anatomy in contact with living tissues in a way which did not happen in heterosexual intercourse or by kissing. According to Dr. Barulich, this meant the AIDS virus was more likely to be transmitted in a single act of anal intercourse versus vaginal intercourse.

Dr. Barulich estimated the risk of contacting AIDS from a single heterosexual encounter was one in 500, as per Jama, 1988. The risk of homosexual intercourse was twice this, or one in 250, as per Enlancid, 1988. He quoted the July 1992 publication "Medical Monograph" which read, "Receptive anal intercourse is a very high risk sexual practice for both men and women".

Dr. Barulich asserted homosexuals who participated in sodomy also participated in other high risk behaviors which included the practice of "fisting" which involved the use of a hand or an entire arm inserted in the rectum which caused significant trauma or bleeding in the lower digestive tract. Defecating on one another spread the germs which were normally found in feces. "Golden showers" was the practice of urinating on one another. Dr. Barulich presented an example of abnormal dangerous behavior as experienced by a colleague of his who cared for a patient who reportedly had been on the receiving end of a blood pressure cuff which had been inserted in the rectum wherein it had been blown up until the colon ruptured and had to be surgically repaired.

Dr. Barulich went on to report multiple sexual partners increased the risk of transmission of all sexually transmitted diseases. The researcher Mr. McKusick had reported in 1985 that 28 percent of homosexuals had committed sodomy with one thousand or more partners and 70 percent of homosexuals had participated in sodomy with 50 or more partners; only 2 percent had monogamous relationships. Of those 2 percent, 5 percent of them drank urine, 7 percent incorporated "fisting", 33 percent ingested feces, 53 percent swallowed sperm, and 59 percent received sperm up the rectum as per the "American Journal of Public Health", 1985.

Dr. Barulich revealed much of the multiple sexual partner behaviors occurred at gay bathhouses. According to the researcher Mr. Jaffee (1985), male homosexuals were 14 times more prone to have contracted syphilis than heterosexuals, 3 times more apt to have had gonorrhea, 3 times more likely to have genital warts, 8 times more apt to have hepatitis, 3 times more susceptible to infection from penile contact, and thousands of times more likely to contract the AIDS virus. Compared to heterosexual females, lesbians were 19 times more likely to have syphilis, 2 times more apt to have had genital warts, 7 times more likely to have had infection from vaginal contact and 29 times more apt to have oral infection from vaginal contact. There was also an increased risk of cervical cancer secondary to warts, hepatitis A and C, chlamydia, herpes and other sexually transmitted diseases. Other problems included "gay bowel syndrome" and "anal incontinence", which was an inability to hold stool because of trauma to the anus.

Dr. Barulich warned AIDS was becoming the number one health concern in our country. There had been 45,000 diagnosed cases of AIDS as of 1991. Many individuals had the virus and were infectious but had no symptoms because the incubation period of

the HIV virus was seven to ten years. According to Dr. Barulich, during that time, patients could potentially transmit the deadly virus with a single sexual contact. Homosexual or bisexual males made up 55 percent of the reported cases and any HIV positive individual harbored numerous opportunistic infections which could be dangerous to others.

Dr. Barulich reported there had been a resurgence of a resistant form of tuberculosis which was carried by HIV positive patients and could become very dangerous to the general population. He maintained HIV-positive individuals had minimal symptoms due to the immune responses which had decreased. At the same time these individuals harbored large amounts of infectious organisms which were resistant to normal drugs.

Although it was very important to search for a cure for AIDS, Dr. Barulich noted the spread of this deadly disease could be incredibly minimized by simply modifying behaviors. The risk to contract the disease was zero for total, mutually monogamous sexual relationships. This was the only true safe sex. He asserted where one might state all diseases discussed were not a problem as long as one was having safe sex with a condom was a fallacy as initial studies revealed condoms failed on an average of 15 to 20 percent of the time in preventing pregnancy, which could only happen a few days out of each month. A July 1992 study proved a 33 percent leakage rate of HIV-sized particles in latex condoms. In this study, the condoms were placed over penis-sized objects and there was no motion at all. According to Dr. Barulich, this study was reported in Sexually Transmitted Diseases (July 1992).

Dr. Barulich pointed out in the June 1993 edition of the "Journal of American Medical Association," Surgeon General Novello reported a 20 percent failure rate in condoms used to protect sexual partners from contracting HIV. He added, each HIV infection was synonymous with death as there was no cure for AIDS. Condoms gave a false sense of security and promoted the continuance of this dangerous behavior.

Dr. Barulich asked if the pronouncement of sodomy as a criminal act would decrease AIDS testing in this state. His answer was no. He elaborated and noted when patients were asked questions about sexual behavior, it was in the context of learning information for the good of the patients, not to turn them over to the authorities. Patients were not concerned their physicians would turn them in. As he understood from speaking with his colleagues in infectious diseases and family practices, none of the physicians had ever reported the criminal behavior.

It was Dr. Barulich's contention, when patients had stated they had experienced homosexual contacts, physicians were required to ask them what specific acts they had committed and where those acts were done, i.e. in Nevada or outside the state. This just was not done. He alleged, if patients were fearful of the law and tested elsewhere outside the state, it would be expected to see a decrease in the number of tests being conducted. The Sierra Nevada Lab in Reno had not experienced a decrease in the number of tests conducted but had experienced an increase from 7,200 tests in 1990 to 10,800 in 1991 which was a 51 percent increase. In 1992 there were 12,000 tests conducted, an 11 percent increase. In 1993 it was projected 14,400 tests would be administered which was a 20 percent increase, according to Dr. Barulich.

The figures could not be explained by population growth. As per Dr. Barulich, the Nevada Department of Taxation reported Reno and Sparks had a 2.5 percent growth rate in 1991 and 1.32 percent increase in 1992. If people were afraid to be tested, he surmised, one would expect more patients to be seen for the first time in the latter stages of the diseases when they were presented with opportunistic infections. This was not the case. Dr. Barulich stated he had spoken with his infectious disease colleagues in Reno and they asserted they had experienced many first-time presenters with opportunistic infections during the mid 1980's. These cases were rare now because more people were getting tested.

Dr. Barulich addressed the testimonies which argued there should not be a criminal behavior law if these laws could not be enforced. He maintained criminal behavior law was needed to discourage sodomy as it was high risk behavior and placed the community at risk. He contended, if the current law was repealed, the behavior would be condoned and legitimized.

Dr. Barulich noted Tahoe and Las Vegas were popular vacation spots for all individuals, including gays. He speculated when visitors come to these areas they partied and gays participated in sexual encounters. If the practice of sodomy was made legal in Nevada, he underscored the fact homosexuals would be encouraged to visit the area and party which would spread the sexually transmitted diseases and infections they carried. He alleged the state would have to take care of those who got sick which would deplete many of the state's health care and financial resources. The cost of care for each HIV positive patient was estimated to be \$200,000.

Dr. Barulich pointed out a good example of the consequences when this type of behavior was condoned was experienced in the state of California. In 1975 the sodomy law had been repealed and was thought to be the forerunner of the bathhouse culture; more than 100 bathhouses had been established. During the 1980's, A.B. 403 had been passed which protected the privacy of HIV-positive patients who did not experience symptoms. He inferred this was an example of how AIDS was treated as a civil rights issue rather than a public health issue.

Dr. Barulich professed even non-life-threatening, sexually transmitted diseases were handled in the normal way and entailed testing individuals to determine positivity, and contact-trace to identify and isolate infected individuals. He testified, in California, the rights of the infected individuals were more important than the rights of those who came into contact with them. Once doctors became aware of HIV positive individuals, they could not divulge the information to the patients' families nor other doctors or nurses without threat of criminal prosecution. For years doctors could not tell the patients' lovers or the health department although this had recently been changed. The new law allowed for opting to report although it did not mandate reporting. He explained this was a situation where doctors knew individuals were potentially lethal and could not do anything about it.

According to Dr. Barulich, this violated the hippocratic oath which stated doctors were to do no harm. S.B. 466 would allow the health of others to be jeopardized. The legalization of sodomy would have an extremely negative impact on the health and welfare of the state, he hypothesized. He emphasized this was clearly a high risk behavior and should not be encouraged. Dr. Barulich stressed maintaining the current law on sodomy and voting no on S.B. 466 would continue to discourage the high risk behavior and would help protect lives and prevent suffering. He urged the Assembly Judiciary Committee to vote no on the passage of S.B. 466 for the health of Nevada.

Ms. Ann Dankworth, Registered Nurse and mother of four children, testified in opposition to the passage of S.B. 466. As an active Parents and Teachers Association member in her local school district, she explained she was grateful for the law. The school districts had been mandated by the state several session ago to devise an AIDS curriculum wherein they dealt with homosexuality as a high risk behavior. She asserted there were special interest groups who wanted to teach the homosexual special agenda. She contended the current law protected the schools because parents could appear before the school board and

disallow the teaching of explicit homosexual material. She asserted children had the right to be protected from special interest groups in the schools.

Reverend Leo Kruger, pastor, Valley Christian Fellowship Church, testified in opposition to the passage of S.B. 466. Using this as an analogy, he explained he had resided in the state of Alaska for many years during the period when the use of marijuana had been legalized. He maintained there were consequences when certain activities were condoned and practiced openly. Because the use of marijuana had been legalized, more individuals had been inclined to participate in its use. Alaska repealed the marijuana law due to the problems this behavior created. He argued this would be true with S.B. 466 in that condoning sodomy would encourage and promote the practice.

Reverend Kruger alleged if sodomy was legalized, sodomites would not be chastised for their abuse of young adults or children. He maintained the issues were not individual rights but what was right. He quoted biblical scripture from Romans 1:32.

Reverend Kruger alluded to the Time Life article entitled "Patient Zero". He informed the committee members in 1984 a 32 year old flight attendant named Gayton Dugas of Quebec City, Canada had died of AIDS. He had acquired the disease through homosexual encounters. Two years before his death, the National Center for Disease Control in Atlanta, Georgia identified Dugas as the one individual responsible for the epidemic of AIDS in the United States. As a steward for Air Canada, Dugas had been an ideally mobile character for the transmission of the HIV virus and had bragged of 2,500 sexual conquests, mainly men in California and New York. When the National Center for Disease Control traced the disease to America, it was found Dugas had been the sexual partner for the first 19 reported AIDS cases in Los Angeles and the first 22 cited cases in New York City, including eight additional cases in other towns. Warned in 1982 about the threat Dugas' lifestyle imposed on other people, he deliberately continued to spread AIDS until his death. Innocent individuals suffered because of his irresponsibility.

Mr. William R. Denny, Marriage and Family Therapist, testified in opposition to the passage of S.B. 466. He did not speak from a technical point of view but on behalf of clients and patients he counseled over the years who struggled with addictive and compulsive behaviors which disrupted their lives, health, families, friends and community.

Mr. Denny relayed the case of a client of his who was struggling with his homosexuality. Mr. Denny asked the client what would best be served to present before the Assembly Judiciary Committee in reference to his homosexuality. The patient requested Mr. Denny express the hatred he had for his homosexuality, that it was not fun nor was it natural. Mr. Denny expressed the difficulty in hearing the testimonies of young men experiencing the homosexual lifestyle who expressed their true awarenesses of feeling trapped, enslaved, manipulated by older men, the enticements of money, jewelry, automobiles, overtures of love and care. According to Mr. Denny, his homosexual clients often confessed they were knowledgeable of the fact they had been used.

Mr. Denny stated there was help for those individuals who were struggling with lifestyles and behaviors they did not like. There was help for those individuals who had been entrapped and snared by compulsive and obsessive acts. He asserted others should not sit in judgment of homosexuals but should offer help and hope. He had assisted individuals in understanding they did not have to remain trapped in behaviors they did not want to be involved in as there were options. Mr. Denny encouraged the committee members to assess S.B. 466, not from the standpoint legislation could dictate individuals' behaviors, but from the view this behavior did not have to be condoned.

Ms. Lucille Lusk spoke on behalf of the Nevada Coalition of Concerned Citizens and testified in opposition to the passage of S.B. 466. She alleged the bill had ramifications which reached far beyond the issue of privacy and placed the community at large at risk. She addressed the proliferation of bathhouses which would denigrate tourism in the state. She focused attention on the high rates of child sexual molestation despite the existing laws. She emphasized the passage of this bill would put children at greater risks. The Nevada Coalition of Concerned Citizens asked the legislators keep a safe harbor for the children.

Ms. Lusk questioned who promoted hatred. She cited the Nevada Coalition of Concerned Citizens had received a number of threatening and obscene phone calls since testimony had been received in the Senate; among the caveats received were threats to wipe out families and friends which in itself was an apparent disregard for the law.

Ms. Lusk noted an additional ramification to the passage of S.B. 466 which would teach homosexuality to students in public schools. She related the "Project 10 Program" which had almost

become part of the educational curriculum in the Washoe County School District in 1990. She contended there was a law which made the infamous crime against nature a crime and schools did not have the authorization to promote the homosexual lifestyle. She alleged there were numerous programs which contained material which she described as obscene. Ms. Lusk pointed out in 1986 the U.S. Supreme Court had ruled sodomy laws were constitutional and the Nevada Supreme Court had also refused to overturn the Nevada Sodomy Law. She asked the Assembly Judiciary Committee retain the existing laws which made the infamous crime against nature illegal.

Mr. Bruce Bogaert, businessman, addressed the issues of sexual harassment in the workplace. He accentuated the fact the timing for passage of a bill such as S.B. 466 was atrocious as it would increase cases of sexual harassment in the workplace and would interfere with the functioning of businesses in the state.

As a businessman who dealt with tourism in the state, Mr. Bogaert was concerned with the impact the passage of S.B. 466 would have on the image for Reno and Lake Tahoe which had spent hundreds of millions of dollars on theme resorts and promotions as family destinations. Competition with other states in the tourism industry was increasing due to 47 other states which had become involved with gaming. He contended the passage of S.B. 466 would be a great step backward for the state. Additional copies of correspondences received by the Assembly Judiciary Committee were contained in Exhibit L, available in the research library.

Chairman Sader opened the hearing for committee discussion on S.B. 466. At this time, questions from the Assemblymen would be directed toward opponents of the bill.

Mr. Anderson directed his concern toward Dr. Cameron. Dr. Cameron informed him there were 23 states which made the act of sodomy illegal. Mr. Anderson understood the penalties for the crime of sodomy in the surrounding states were Utah levied 6 months incarceration, Arizona imposed 30 days, Oregon did not have penalties and Idaho enacted 5 years imprisonment for the crime of sodomy.

In response to Mr. Anderson's concern regarding the obituary studies, Mr. Cameron replied it appeared there was little variance in the statistics between his research and data compiled from other methods. His statistics revealed there were a number of individuals who were both homosexual and illegal drug users and a few had died from drug overdoses. An

exceptionally high rate of heart attacks attended homosexual males possibly due to suspected latent HIV infections. He implied heart attacks might be related to the use of the rectum for sexual pleasure.

Ms. Smith surmised from the testimonies received laws prohibiting sodomy would be deterrents to homosexual relationships which was concurred with by Dr. Cameron although he stated this was to some degree. There was no data on this particular phenomena. Ms. Smith noted her experience had been completely contrary to this.

Ms. Smith directed her question to Mr. Hansen and his comment in regard to HIV infected homosexuals who intentionally infected other individuals which was considered a means of murder. As an analogy, she addressed those individuals who used firearms and intentionally killed others, yet society allowed citizens to keep and bear arms. According to Ms. Smith, if Mr. Hansen's argument was true, would it not make sense to ban heterosexual relationships as well because heterosexuals could use AIDS as a means of injuring others.

Dr. Cameron interjected and referenced the first known AIDS carrier in the United States, "Patient Zero", who was an intentional spreader of the HIV virus. He alleged compulsive criminals who used guns irresponsibly would be disproportionately more apt to use them wrongly again. Ms. Smith contended the issues would be those individuals who intentionally spread AIDS and not the homosexuals. Mr. Hansen interrupted and emphasized heterosexuality had a purpose which was to promulgate the species whereas the homosexual lifestyle had no purpose, therefore, he argued society had a right to ban homosexuality as not only did it not have any purpose but the behavior was dangerous.

To discredit Mr. Hansen's statement, Ms. Smith suggested the implementation of laws which prohibited oral sex, anal intercourse and adultery as all of these acts entailed sex without procreation. She contended, if they were to remain consistent with this belief, perhaps they should be consistent all the way through and not isolate a certain segment of society. Dr. Cameron responded and claimed the statement made by Ms. Smith was rhetorical. He emphasized, when laws prohibited sodomy, there were no homosexual bars, baths nor AIDS and the sexually transmitted disease rate was largely manageable.

To further promulgate her position, Ms. Smith noted the residents of Nevada did not pay income tax and yet the state accepted money from prostitution, survived off gaming and alcohol. She maintained perhaps the citizens of the state should reevaluate the structure if they wanted to be truly moral and consistent in the enactment of the laws. Mr. Hansen added the United States Supreme Court had specifically decided in the sodomy legislation the rights of privacy between men and women were protected. If such statutes were proposed, as suggested by Ms. Smith, he hypothesized they would be upheld as unconstitutional. He contended the law did not protect the right of privacy for homosexual activities. He believed the passage of S.B. 466 was unconstitutional under current case law and strongly supported present law as constitutional and argued there was no reason to change it.

Chairman Sader thanked the audience for their reserve during the Assembly Judiciary Committee members' consideration of testimonies and noted this greatly enhanced the free flow of information. He apologized for those interested parties who were unable to speak. Chairman Sader stated the purpose for receiving testimonies was to provide the Assembly Judiciary Committee a representative view from both sides of the issue. He informed the committee members they were in a position to vote on S.B. 466. Chairman Sader closed the hearing for public testimony at this time and opened the floor for committee consideration of the bill.

For the benefit of the audience, Chairman Sader explained the method of the succeeding procedures. He informed he would consider amendments and a motion to amend. The committee would then consider the amendment and vote on the amendment. He would consider a motion to pass the bill whether amended or not. If the motion failed, he would consider a motion to kill the bill. He advised, if there was no percentage in taking a motion one way or another, there would be no advantage to hearing one motion over another. He directed, if the committee members were cognizant as to how they would vote, they were to make their decisions on each of the actions as they arose.

Chairman Sader acknowledged the fact Mr. Scherer wished to discuss proposed amendments to S.B. 466.

Mr. Scherer dispensed copies of the proposed amendments to S.B. 466, Exhibit K, to the committee members. Chairman Sader directed Mr. Scherer to explain the written comments and present his argument in support of passage of S.B. 466 as amended. For the benefit of those in the audience, Chairman Sader reiterated

the committee would make a motion to amend. If there was a second to the motion, the committee would consider comments on the bill.

Mr. Scherer presented suggested amendments to S.B. 466, Exhibit K. He stated the first proposed amendment made public sexual activities a felony. Mr. Scherer believed the prison system should not be populated with non-violent offenders who were not a threat to society. The proposed amendment would reduce the charges from felonies to gross misdemeanor charges. He maintained this would save prison space for violent individuals who were a threat to society.

Mr. Scherer informed the committee members the second proposed amendment would also amend S.B. 466, Section 1, Exhibit K, and would provide the definition for a "public place or facility". He suggested inserting additional language to the proposed amendments following the word "charged" contained in paragraph 2 of the proposed amendment, Exhibit K. Mr. Scherer stated it would be appropriate to add the phrase, "but does not include a place of lodging or other place where there is a reasonable expectation of privacy".

Mr. Scherer stated the third amendment to S.B. 466, Exhibit K, was designed to address the issue as to whether or not the homosexual lifestyle should be taught in public schools. He maintained, in concept, he supported S.B. 466 and did not believe the government should be involved in private conduct between consenting adults. He also believed the government should not be dictating what should be taught in public schools. He informed the committee the suggested amendment was designed to prohibit any teaching, counseling or promotion of the homosexual lifestyle, or what was known as the infamous crime against nature, in public schools without specifically notifying parents of the content of the programs and obtaining written permission for their children to be involved in the program. For those who did want the homosexual lifestyle to be taught in public schools, there was the right to consent built into the proposed amendment. For those individuals who do not want this taught, there was the right to object. The amendment simply required full notification to parents.

Mr. Scherer stated the fourth amendment to S.B. 466, Exhibit K, dealt with the issue of intentionally transmitting the AIDS virus or HIV. According to Mr. Scherer, this language was taken from the language in S.B. 514 and had been changed. S.B. 514 previously stated, "...willfully, wantonly or negligently". He did not feel the intent of the language was to address the

negligent conduct so the term "negligently" was deleted and rephrased to state, "...willfully or wantonly engages in conduct".

Mr. Scherer proposed a subsection 2 to S.B. 466, Exhibit K, which he requested an addition to the proposed amendment. After the word "conduct" he suggested adding the phrase, "and voluntarily participated in the conduct". He suggested deleting the phrase, "was the spouse of the defendant and" contained on the second line of page 2, Exhibit K.

Mr. Scherer stated the fifth proposed amendment to S.B. 466, Exhibit K, would prohibit counties from licensing houses of prostitution for members of the same sex. He stated the purpose of this particular amendment was in consideration of the abundant testimony, information and statistics which indicated the greater risk of disease and significantly shorter lifespans for homosexual males. He noted data had been sparse on conduct between lesbians. He believed the state had a legitimate interest in the health and safety of the populous, particularly when the state was left accountable for the medical expenses for those who could not afford it.

Mr. Scherer did not wish to address private consensual conduct although he did not want to allow houses of prostitution where there would be significantly increased health risks as per the data provided. Allowing legal houses of prostitution for same-sex activities would counteract the attempts to portray Nevada as a family vacation state. He believed the Senate would concur with the proposed amendment and urged support.

ASSEMBLYMAN SCHERER MOVED TO AMEND S.B. 466.

ASSEMBLYMAN SCHNEIDER SECONDED THE MOTION.

Chairman Sader opened the floor for committee discussion on the motion. He asked for questions from the Assembly Judiciary Committee members as to what the amendments would do, not arguments for or against the amendment.

Mr. Anderson addressed Section 2 of the proposed amendments, Exhibit K, and the term, "in a public place or facility". He asked if the amendment addressed restrooms. Mr. Scherer confirmed the language would entail public restrooms as there was a reasonable expectation of privacy in the stalls. In the

lobby area of public restrooms, he did not believe reasonable expectation applied to this.

Mr. Petrak inquired about the first paragraph of the proposed amendments to S.B. 466, Exhibit K, which referenced the gross misdemeanor charges. He asked what the penalties for gross misdemeanor charges would be. In response, Mr. Scherer stated the penalties were usually no more than one year in the county jail rather than the state prison with the outside penalty of six months to a year. Mr. Porter added the fine would be \$2,000.

Mr. Regan queried paragraph three of the proposed amendments to S.B. 466, Exhibit K. He asked if Mr. Scherer had spoken to any of the school districts relative to the mandate. Mr. Scherer noted he had not spoken with the school districts about this as the amendments would not require the educational systems to establish any programs. The proposed amendments were similar to, and to some extent, based upon language already in the statutes which pertained to AIDS and sex education. The proposed amendments were a little more explicit in terms of the types of notices to be sent. Notices would be required only if programs were to be established and this would be voluntary. Mr. Regan added this addressed a negative mandate in the term, "you shall not". Mr. Scherer confirmed and added the phrase, "you shall not without meeting certain conditions".

Mr. Gibbons asked Mr. Scherer if there was a definition, or change in the definition, of the terms with regard to the act committed between adults and minors. Mr. Scherer responded there was no change in this area. Mr. Gibbons asked if the provisions of the proposed amendments to S.B. 466 would treat males differently from females. Mr. Scherer replied the suggested amendments would not treat males differently than females.

At this time, Chairman Sader opened discussion from committee members on the proposed amendment.

Mr. Bonaventura alleged the constituents in his district were opposed to this legislation and could not understand where passage of S.B. 466 would benefit anyone in Nevada except the minority of homosexuals. He was concerned with the image Nevada would portray should the proposed legislation pass even with the suggested amendments. He stated he sincerely hoped the people of Nevada could count on the legislature to vote on behalf of decency. He applauded those members who had taken a stand for the defeat of the bill as well as those who voted against it.

Mr. Bonaventura stated he assured the committee the majority of Nevadans were against S.B. 466 even as amended. He said children needed to be protected from being exposed to socially disruptive activities. He addressed those committee members who were considering voting for passage of the bill and asked if they were representing the people of Nevada or the minority of homosexuals. He emphasized Nevada did not want this legislation to pass. He surmised those constituents in their districts were not in favor of the bill. He reminded the committee members they were elected by the people in their districts and were expected to represent the majority consensus.

Mr. Bonaventura continued, if the Assembly Judiciary Committee passed S.B. 466 as amended, the committee members would be voting against the will of the majority of all the individuals who voted them to their positions. If they voted against the will of the people in their district, they had failed to represent them. He expressed his desire to make a motion to the main motion to Mr. Scherer's amendment. He referenced Section 1, second line, and suggested deleting the phrase, "any public place or facility".

Chairman Sader did not accept any additional motions at this time. He informed the committee they would vote on Mr. Scherer's motion. Additional motions would be considered following.

Mr. Carpenter addressed Section 1 of Mr. Scherer's proposed amendment, Exhibit K. He asked if this would amend anything except decrease the penalties. Mr. Scherer noted in Section 1 it decreased the penalty. The second amendment, number 2, amended Section 1 of S.B. 466 and gave definition to the term, "public place or facility". He added, in the first part of the amendment, the word "public" was changed to the term, "public place or facility".

Mr. Sader spoke against the amendment proposed by Mr. Scherer for two reasons. He noted there were a number of good concepts in the suggested amendments. He queried whether S.B. 466 could be amended and concurred in by the Senate. He had been informed by the Senate if the Assembly Judiciary Committee amended the bill to reduce the criminal penalty in Section 1, the rather tenuous balance of approval in the Senate would fall apart. In addition, he alleged, amendment 3 reported to tell the school districts how to establish curriculum. He opposed the legislature directing any school district what the curriculums should be. School board members were publicly elected and

should make those decisions the public placed them in office to do.

Mr. Scherer contradicted this claim and said there were a number of statutes where the state of Nevada directed school districts on the establishment of curriculum. The State Board of Education adopted regulations which directed school districts on curriculum. He believed the issue of state versus local control had been decided.

Mr. Sader agreed with Mr. Scherer and contended the state should not exercise their power but use their discretion by allowing the locally-elected officials to determine policy.

Chairman Sader called for a roll call vote on the motion to amend S.B. 466 with Mr. Scherer's amendment. The motion failed 8 to 6.

THE MOTION TO AMEND S.B. 466 FAILED. (ASSEMBLYMEN ANDERSON, BONAVENTURA, PETRAK, PORTER, REGAN, SMITH, TOOMIN AND SADER VOTED IN OPPOSITION. ASSEMBLYMAN HALLER WAS ABSENT FOR THE VOTE.)

Chairman Sader asked for further motions to amend the bill.

Mr. Bonaventura made a motion to amend S.B. 466, Section 1, line 4, to delete the phrase "in public". He suggested deleting line 6 on page 4 which repealed NRS 201.193.

ASSEMBLYMAN BONAVENTURA MOVED TO AMEND.

There was no second to the motion. Chairman Sader declared the motion failed for lack of a second motion.

There was no other motion to amend the bill. Chairman Sader asked for a motion to pass S.B. 466.

ASSEMBLYMAN TOOMIN MOVED DO PASS.

ASSEMBLYMAN PORTER SECONDED THE MOTION.

Chairman Sader opened the floor for discussion on the do pass motion.

Mr. Carpenter voiced a number of concerns regarding S.B. 466. He believed the language was too restrictive in Section 1, which read, "it shall be punished by imprisonment in a state prison for not less than one year or more than six years". He maintained the term "in public" made it more onerous for married couples. He was concerned with Section 2 which addressed minors who engaged in these acts as the language was not clear. He addressed his concern with the passage of the bill and the effect it would have on the prison system. He asked these activities would be more acceptable in the prison system and stressed the danger of the spread of disease there. He explained why he would vote against the bill particularly when he was on record as opposing governmental intervention. Mr. Carpenter believed the amendments amended the section of law which pertained to decency and morals. He would oppose this legislation.

Mr. Collins referenced the comments presented by Mr. Sader that the Senate would not concur with the amendments based on the change of the felony charge to gross misdemeanor charges in Section 1. Through Chairman Sader, he asked the maker of the motion and the maker of the second to S.B. 466 to withdraw their motions and reconsider the amendment to Section 1 presented by Mr. Scherer which changed the amendment from a gross misdemeanor charge to a felony.

Chairman Sader declared the maker of the motion, Mr. Toomin, would not recede from his motion to do pass S.B. 466.

Mr. Petrak believed S.B. 466, Section 1, lines 4 and 5, sent the message the public wanted additional decency and increased morality by making the penalties more severe.

Mr. Scherer agreed with eliminating government intervention from private lives. Unfortunately, he would oppose the bill in part due to the failure of the amendment, particularly the third part which would have prohibited the instruction of homosexual lifestyles in the school system. According to Mr. Scherer, this could interfere with parents' rights to decide what their children were taught in the schools. Balancing those two rights, he was in favor of keeping this issue out of the schools.

Mr. Bonaventura stated he would vote against the motion. He stated the motion sickened him.

Assembly Committee on Judiciary
June 10, 1993
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Chairman Sader informed the committee the motion on S.B. 466 was do pass. He requested a roll call vote. The motion passed 9 to 5.

THE MOTION TO DO PASS S.B. 466 PASSED. (ASSEMBLYMEN BONAVENTURA, CARPENTER, COLLINS, SCHERER AND SMITH OPPOSED. ASSEMBLYMAN HALLER WAS ABSENT.)

There being no further business to come before the committee, Chairman Sader closed the hearing on S.B. 466.

RESPECTFULLY SUBMITTED BY



Jessie A. Caple
Committee Secretary

TESTIMONY BEFORE ASSEMBLY JUDICIARY
ON SENATE BILL 466

by Myra A. Sheehan
Attorney and Counselor at Law
June 10, 1993

Mr. Chairman and members of the committee, my name is Myra Sheehan and I am an attorney. Until January of this year I had a solo practice which was limited to the representation of low income, battered women. I have chosen to limit my practice to domestic law because I believe there is no more important area of the law than those laws that effect the families and children of Nevada.

As I stand before you today I represent no identifiable interest group. However, I am a true advocate for the under-represented. I have chosen to testify before you today on behalf of those people who are fearful to come forward to speak in support of S.B 466 because of the stigma that the opposition so readily would like to label anyone who is courageous enough to do so.

Before I get into my testimony I have been given the honor to bring to you a letter written by the Honorable Judge McGee and the Honorable Judge Jordan of the Family Division of the Second Judicial District Court. They have asked me to read this letter into the record.

As a family law practitioner, I have had first hand experience with NRS 201.190, Crime against nature, and the chilling effect that it has on families and children. I have had clients come to me in fear that they may lose custody of their children or may lose the right to have any meaningful relationship with their

children, because a vengeful spouse or ex-partner has threatened them with this law. Many of those people have compromised their right to their day in court for fear that this oppressive law will be used against them. There have been instances where people have compromised their rights to visitation or their freedom of association so that they could have some kind of relationship with their own children. I have seen this law used to intimidate people into making decisions that may very well have not been in the best interest of their children, and I have seen this law used to hurt and humiliate good citizens of this state.

NRS 201.190, Crime against nature, is a law that is so oppressive and misused in our state that it denies people their rightful day in court. It has torn parents and children apart; it has ruined lives and held people hostage.

The opposition to S.B. 466 would like you to believe that there is some type of homosexual agenda or conspiracy afoot. That repealing a law that is not enforced, and is virtually unenforceable will promote the homosexual lifestyle. You will see through this proceeding that homophobia, like racism and sexism, pervades our society. Much to the chagrin of the opposition, homosexuality is not illegal in Nevada, nor is it illegal in any state of the union. NRS 201.190 does not make homosexuality illegal. In fact this state has a law which will punish someone who commits certain unlawful acts against a person because of their perceived or actual sexual orientation. (See NRS 207.185.)

NRS 201.190, crime against nature, is directed at "consenting adults of the same sex," therefore targeting homosexuals. If you

are going to have a law that selectively applies to a particular group of people, then it must be supported by a neutral and legitimate interest. What neutral and legitimate interest could there possibly be to legislate against an intimate private relationship between two consenting adults of the same sex.

There have been amendments attached to S.B. 466 to insulate legislatures who know that NRS 201.190 is an unenforceable law and is discriminatory and there have been amendments propose to placate the opposition.

Society has every right in encouraging its citizens to follow particular traditions in expressing affection for one another in public. The states may and do prohibit an individual from imposing his will on another, and in particular on a minor, to satisfy his own selfish interest. But, the states interest is not restricted to homosexual activity but also concerns heterosexual activity when it is unwanted, in public or is committed against a minor.

The opposition would like you to believe that supporting S.B. 466 will allow the teaching of the homosexual life style in schools, promote the spread of AIDS and open the door for homosexual brothels. They have no legally sound argument. They have no evidence to prove such a hypothesis. All they have is the desire to promote their agenda of fear, intolerance, misunderstanding and hatred toward a life style that they do not understand.

We in Nevada have a unique history. Nevada has always respected the rights of individuals. Some call it a frontier mentality, which has allowed us over the years not to allow other

states or individuals to dictate their morality to us. You have before you Senate Bill 466. This bill accomplishes the goals of making it unlawful to commit certain acts against a minor, protects prisoners from those who would engage in acts which could spread the AIDS virus, and repeals a law which is neither legally sound nor enforceable as written.

I encourage you to support Senate Bill 466.



SECOND JUDICIAL DISTRICT COURT

STATE OF NEVADA
WASHOE COUNTY

SCOTT T. JORDAN
DISTRICT JUDGE
DEPARTMENT ELEVEN
FAMILY DIVISION

75 COURT STREET
RENO, NEVADA 89501
(702) 328-3800

LETTER TO ASSEMBLY ON SENATE BILL 466

by Charles McGee and Scott Jordan

Judges for the
Family Division Of
The Second Judicial District Court
In And For The County Of Washoe

To the Honorable Robert Sader, Chair Assembly Judiciary Committee:

We support Senate Bill 466 which repeals NRS 201.190. The current statute makes certain acts "between consenting adults of the same sex" a felony, which in our judgment is both archaic and violative of the equal protection and privacy rights guaranteed by the U.S. Constitution.

As the Supreme Court stated in Thornburgh v. American College of Obstetricians & Gynecologists, 476 US 747, 90 L Ed 2d 779, 106 S Ct 2169 (1977), "The concept of privacy embodies the 'moral fact that a person belongs to himself and not to others nor to society as a whole.'" id at 777 n 5 (Stevens J. Concurring).

The state of Nevada should not legislate what occurs between two consenting adults of the same sex, any more than the government has a right to legislate what occurs between two consenting adults of the opposite sex. To do so would go against a long list of

cases recognizing that the Constitution embodies the promise of a certain private sphere of individual liberty which will be kept largely beyond the reach of our government.

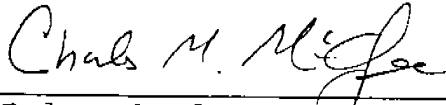
The Supreme Court in Wisconsin v. Yoder, 406 US 205, 32 L Ed 2d 15, 92 S Ct 1526 (1972), upheld the right of the Amish to remove their children from formal schooling because it threatened their way of life. The Court declared: "A way of life that is odd or even erratic but interferes with no rights or interest of others is not to be condemned because it is different." id at 223-224.

NRS 201.190 is not only unenforceable, but it is clearly discriminatory. This State should not punish private behavior because of intolerance or bigotry. The Supreme Court in Palmore v. Sidoti, 466 US 429, 80 L ed 2d 421, 104 S Ct 1879 (1984) stated "The Constitution cannot control such prejudices, but neither can it tolerate them. Private biases may be outside the reach of the law, but the law cannot, directly or indirectly, give them effect." id at 433. A law which is one of selective application must be supported by a neutral and legitimate interest. It must be something more than a habitual dislike for, or ignorance of, the disfavored group. We cannot identify any such interest justifying this law.

NRS 201.190 reaches far beyond what the government has a right to regulate and has invaded the privacy of citizens of this State. It is time that the legislature took steps to abolish a law which

is not enforced, is not enforceable and which if it were enforced may very well be unconstitutional. We support Senate Bill 466 and believe that NRS 201.190 should be totally repealed. Please help keep Nevada a safe harbor for individualists.

Respectfully submitted,



Judge Charles McGee



Judge Scott Jordan



DISTRICT HEALTH DEPARTMENT

June 7, 1993

Robert M. Sader, Chair
Judiciary Committee
Nevada State Assembly
Carson City, NV

Bob
Dear Chairman Sader:

I would like to express the support of the Washoe County District Health Department for the passage of SB 466, which would repeal the sodomy law.

The role of the District Health Department is not legislating morality. Our mission is to promote health and prevent the spread of disease. The sodomy law is a barrier to those of us who are fighting the spread of AIDS in Nevada. This is because people who may be engaging in the high risk behavior for AIDS are deterred from being tested for the disease because they fear being reported for breaking the sodomy law. Therefore, they do not get tested and do not know if they are carriers of the AIDS virus.

A person who tests positive for the AIDS virus in Nevada is reported by name to the public health authority. Because of fear of name reporting and the sodomy law, people who are homosexual or bisexual often go to California to be tested. Those who test positive are not reported as Nevada cases, and Nevada loses the federal dollars that are allocated based on the number of cases in a state. These funds are greatly needed in Nevada to fight this disease.

Testing is one of the most important weapons we have to fight AIDS. When we test people for the virus, we also educate them on how to protect themselves and others from the disease. Repealing the sodomy law will encourage more people to get tested.

Please help to stop the spread of AIDS by passing SB 466. Thank you very much for your consideration.

Sincerely,

David E. Rice
David E. Rice, M.P.H.
District Health Officer

DER/ct

Jerry Cade, M.D.

General Practice

May 13, 1993

Dear :

You will soon be considering SB 466, a bill to repeal Nevada's "crimes against nature" statute. There are many reasons to overturn this law. One of my concerns is from my perspective as a physician.

Nevada has one of the highest AIDS attack rates in the nation. "Attack rate" is the number of AIDS cases per hundred thousand people. The explanations for this are multiple and complex. To me, the causes are irrelevant. AIDS is a major health care problem for us in Nevada. We need to address HIV disease with reason, vision and compassion.

Death is probably difficult to accept at any age. I find it particularly hard to watch such young women and men die during what should be the most productive years of their lives.

I am the co-founder of University Medical Center's AIDS inpatient ward and outpatient clinic. I still serve as Medical Director of HIV Services at University Medical Center. We have taken care of hundreds and probably thousands of people with HIV disease.

I am also a member of the Nevada Statewide AIDS Advisory Task Force -- a body created by Senator Bryan when he was Governor. Our task has been to suggest a number of strategies to help prevent the spread of AIDS in Nevada. We have offered a number of recommendations about health care, education, funding and legislation.

We had an extremely protracted discussion about whether or not physicians and labs should report HIV - Antibody positive individuals to the appropriate health authorities. This would allow public health personnel to ensure that these HIV-infected individuals were introduced as early as possible into the health care system.

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EXHIBIT D

Reporting HIV-Antibody positive results would also create a mechanism for notifying the partners of these HIV-infected individuals that they were potentially exposed to the AIDS virus. Likewise, these partners could be tested, introduced to medical care and counseled about their risk of spreading HIV Disease. Traditionally, public health has always operated in this manner.

In Nevada, one of the concerns about this approach was the barrier erected by the "crimes against nature" statute which criminalizes the behavior of a large number of the individuals who might be HIV-infected. We felt this law was archaic and needed to be repealed.

I have included the entire anti-discrimination policy adopted by the Statewide AIDS Advisory Task Force. I have boxed the last paragraph of the second page which addresses this issue.

I have also enclosed the membership of the task force. We are an eclectic, statewide body representing a number of disciplines. Our vote on this policy was 9-0. There was no dissension.

Notwithstanding the privacy, constitutional and civil rights issues involved in the repeal of this statute, our task force felt there were compelling medical reasons to eliminate the "crimes against nature" law.

I will be happy to provide you with any additional information you might need. My home address is : 84 Megan Drive; Henderson NV 89014. My home phone number is (702) 897-7455.

Thank you for your time, attention and concern.

Warmly,

Jerry Cade, M.D.

JCA/b

Enclosures

Testimony for Assembly Judiciary on SB 466

Mr. Chairman, Members of the Judiciary

Thank you for allowing me to testify on SB 466.

For nearly eight years, I have had the privilege of taking care of the majority of men and women in Nevada with AIDS. It has been difficult for me to watch such young men and women die in the primes' of their lives. But, I have been sustained, encouraged and enriched by the courage, dignity and grace with which my patients face their mortality. We could all learn from their example.

Nevada has consistently had one of the highest incidences of AIDS of any state in the nation. We are currently number 11. We have been as high as number 5. It is important to do whatever we can to help prevent the spread of this disease.

Several years ago, the Governor appointed a panel of experts to look at Nevada's AIDS crisis and make recommendations for preventing the spread of this virus in our state. Dr. Trudy Larson and I co-chaired a subcommittee of that body which looked at AIDS discrimination and its impact on the spread of this disease. Discrimination against people with HIV Disease kept people from being tested and from seeking early medical treatment. Too, we wanted to be able to treat HIV Disease like all other public health concerns. We wanted to encourage testing, counseling, reporting, contact tracing and early medical intervention.

We developed an anti-discrimination policy which concluded with the recommendation that we repeal Nevada's Sodomy statute. Almost every group that testified before our task force cited this law as a reason for not testing and not reporting HIV-Ab positive individuals to the appropriate health authorities.

We felt that the more reasonable approach was to test and report HIV-Ab(+) persons and to get rid of what we felt was an archaic and irrational intrusion into people's private lives.

I sent each of you copies of our AIDS anti-discrimination policy. The final paragraph addresses this issue and is worth repeating: "It is difficult to create a climate of non-discrimination in the face of institutionalized discrimination. Nevada is one of only five states that specifically criminalizes sexual practices for consenting adults of the same sex, while allowing those practices for consenting adults of different sexes. In an effort to create an environment that facilitates both the reporting of HIV Disease and prevents discrimination against individuals infected or perceived to be infected with HIV Disease, we recommend that this statute be repealed and replaced with legislation that assures all individuals a right to privacy for consensual adult sexual activity."

The task force voted 9-0 to adopt this policy. The membership of that body includes Dr. Alan Busby, Nephrologist; Dr. Vicky Carwein, Dean of the College of Health Services at UNLV; Mr. Larry Matheis, Executive Director of the Nevada State Medical Association; Mr. David Parks; Senator John Vergeils; Dr. Patrick Harper, from the dental community, Natalie Silva; and Dr. Otto Ravenholt, the Chief Health Officer of the Clark County Health District along with Dr. Larson and me. I submitted to you testimony from Dr. David Rice, Chief Health Officer of Washoe County Health District along with Dr. Ravenholt's testimony. Those of us who have been charged with dealing with this crisis as well as the public health in general feel this law stands in the way of good public health policy and medical intervention.

As a physician who sees hundreds of patients with AIDS each year, I can tell you that there is still a lot of fear among my patients that their diagnosis will become know, that their sexual orientation will be presumed and that their careers will be ruined.

Of course, AIDS is not a gay disease. HIV is a virus. In this country, that virus first attacked the gay community. Worldwide, the disease is much more prevalent among heterosexuals. And in this country, we are seeing the highest percentage increase in new AIDS cases among women and children. AS time passes, I am certain we will identify additional barriers to testing and treatment -- and we will be back asking for your advice. But for now, you can help us begin to address this crisis in Nevada by passing SB 466.

I'd like to close with a quote from Dr. C. Everett Koop, who served as Surgeon General during the early years of the AIDS epidemic. Dr. Koop noted, "At the beginning of the AIDS epidemic many Americans had little sympathy for People with AIDS. The feeling was that somehow people from certain groups 'deserved' their illness. Let us put those feelings behind us. We are fighting a disease, not people. Those who are already afflicted are sick people and need our care as do all sick patients. The country must face this epidemic as a unified society. We must prevent the spread of AIDS while at the same time preserving our humanity and intimacy."

Thank you.

Submitted by Jerry Cade, M.D.



CLARK COUNTY HEALTH DISTRICT

P.O. BOX 4426 • 625 SHADOW LANE • LAS VEGAS, NEVADA 89127 • 702-385-1291 • FAX 702-384-5342

June 9, 1993

The Honorable Assemblyman
Robert M. Sader, Chairman
Judiciary Committee
Nevada State Assembly
Carson City, NV 89710

Dear Chairman Sader:

I support the passage of SB 466, which would amend the sodomy law to forbid sex acts in public but no longer govern acts in private between consenting adults.

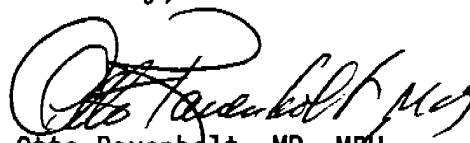
Our mission is to promote health and prevent the spread of disease. The sodomy law is not effective in controlling private sexual behavior between consenting adults but it is a barrier to those of us trying to limit the spread of HIV/AIDS in Nevada. This is because people who may be engaging in high risk behavior for AIDS infection are deterred from being tested for the disease because they fear being reported for breaking the sodomy law.

A person who tests positive for the AIDS virus in Nevada is now reportable by name to the health authority. Because of fear of name reporting and the present sodomy law, people who are homosexual or bisexual in activity often go out-of-state to be tested. If positive they are then not reported as Nevada cases, and Nevada loses federal dollars now allocated based on the number of cases in a state. These funds are needed in Nevada to cover cost of treating persons with this disease.

Testing is one of the most important weapons we have to fight AIDS. When we test people for the HIV virus, we also educate them on how to protect themselves and others from the disease. Repealing the sodomy law will encourage more people to get tested and counselled.

Passing SB 466 will help stop the spread of AIDS.

Sincerely,


Otto Ravenholt, MD, MPH
Chief Health Officer

OR/mlg

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EXHIBIT D

LIONEL SAWYER & COLLINS

ATTORNEYS AT LAW

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MARK A. MCINTIRE
JACK R. HANNIFAN

SAMUEL S. LIONEL
GRANT SAWYER
JON R. COLLINS
(1923-1987)
STEVE MORRIS
JEFFREY P. ZUCKER
PAUL R. HEJMANOWSKI
ROBERT D. FAISS
RICHARD G. CAMPBELL
DAVID N. FREDERICK
ANDREW S. BRIGNONE
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KRISTIN BURT McMILLAN

OF COUNSEL

ROBERT M. BUCKALEW

May 21, 1993

WRITER'S DIRECT DIAL NUMBER:

STATE SENATE JUDICIARY COMMITTEE
c/o Hon. Mark James, Chairman

I am familiar with SB466. Please be advised that I fully support the bill as modified. It appears to me that the facilitation, care and treatment of HIV patients is alone sufficient reason for its passage.

Sincerely,



GRANT SAWYER

GS/rc

SB 466

May 24, 1993

My name is Alicia Smalley, I am a licensed social worker, and a certified rehabilitation counselor. I am on the national Board of Directors for the National Association of Social Workers and I am co-chair of the legislative committee for NASW Nevada Chapter. NASW nationally has 140,000 members who are bound to adhere to our code of ethics. We are in favor of SB 466 because it would be consistent with our beliefs. Our code of ethics states that : The social worker should not practice, condone, facilitate or collaborate with any form of discrimination on the basis of race, color, sex, sexual orientation, age, religion, national origin, marital status, political belief, mental or physical handicap, or any other preference or personal characteristic, condition or status. It further states that: The social worker should act to prevent and eliminate discrimination against any of these persons or groups.

NASW will support the repeal of all laws against any form of consensual adult sexual activity. Because the social work profession has a responsibility for serving disadvantaged or oppressed groups and persons, social workers must ascertain the needs and promote the well-being of lesbians and gay men. A percentage of social workers and their clients are members of this group.

page 2

We will work to eradicate homophobia—the irrational hatred, fear, and stereotyping of those who are sexually oriented toward people of their same sex. This gives rise to multiple discriminatory practices, both individually and institutionally in American society. We as social workers will act to expand choice and opportunity for all persons, with special regard for disadvantaged or oppressed groups and persons.

At various times, many human behaviors have been defined as deviant, for example, masturbation, sexual relationships between unmarried people, and birth control. We understand that the social definitions of homosexuality have varied over time. Homosexuality is no longer viewed as pathological by the mental health professions.

Oppression of lesbians and gays has been expressed in religions, cultures, civil and criminal legal codes, and institutionalized discrimination—this cannot go on. SB 466 is a step in the right direction to alleviate this discrimination.



National Association of Social Workers

NEVADA CHAPTER

AB 598

Chair and members of the committee, My name is Alicia Smalley, I am a licensed social worker and rehab counselor in Nevada. I am also a member of the National Association of Social Workers and Legislative Co-Chair for the Nevada NASW. I serve on the National Board of Directors for NASW, am a single parent and am serving my third term on the Douglas County School Board.

NASW supports AB 598. Social Workers are often the professionals who work with juvenile offenders. Programs of regimental discipline instill in these offenders the very characteristics that they did not acquire growing up. These offenders have many characteristics in common; low self-esteem, poor study habits, lack of self-discipline, history of being abused, and a sense of hopelessness and helplessness. These programs train the offenders to think about themselves differently. They learn to have self-confidence and pride in themselves and their abilities.

Programs of regimental discipline are the last chance some of these juvenile offenders have to correct their mistakes and learn healthy ways of living. If we don't help them, we will see them again in the adult correctional system at a much higher cost to society. We can't afford to lose any more of our children.

NASW hopes that you will support AB598.

**THE REPEAL OF ANTI-SODOMY LEGISLATION:
THE POSITION OF SOCIAL WORK**

Mr. Chair and members of the committee. My name is Dr. Dean Pierce. I am Director of the School of Social Work at the University of Nevada, Reno and am President-elect of the Nevada Chapter of the National Association of Social Workers. I come here today as a representative of NASW and the profession of social work to ask you to reexamine the existing state statute which does not grant homosexuals the same measure of privacy as others.

Historically, the profession of social work has opposed discrimination against all groups, including homosexuals. Social work's opposition to discrimination of this nature is contained in the association's Code of Ethics as well as in its public policy positions. For example, NASW's Code of Ethics mandates that each social worker, "should act to prevent and eliminate discrimination against any person or group on the basis of (among other factors) sexual orientation." To deliver on this mandate, the professional association has adopted a public policy on lesbian and gay issues. This policy statement indicates that NASW will "support the repeal of all laws against any form of consensual adult sexual activity."

NASW's policy statement and its Code of Ethics recognizes that same-sex sexual orientation should be afforded the same respect as shown opposite-sex sexual orientation. NASW affirms that individuals are entitled to the same rights, including the right to privacy, as long as the rights of others are not infringed upon. The resolve of social workers to end such discrimination is strengthened by our work with homosexual people, especially those who have been harmed by the non-acceptance that is reflected in acts of discrimination directed against them.

As a social worker it is my opinion that discrimination against any individual or group is un-American and that to protect such persons from discrimination does not constitute granting special privileges to them. There is a fear in this country about something called the "homosexual agenda." Part of this belief is the fear of providing so-called special treatment to lesbian and gay people. As a social worker I am more concerned about the "anti-homosexual agenda," which is designed to reinforce the special discriminatory treatment which currently exists regarding homosexuals.

I believe that all Americans, if forced to choose, would side not with hate, but with homosexuality. The anti-homosexual agenda, if any exists, promotes hatred. The homosexual agenda, if any exists, seeks the same treatment for homosexuals that is accorded to all other Americans. The agenda of America has always focussed on the decent and fair treatment of all of its citizens. Such fair treatment is definitely a part of the agenda of the profession of social work.

I appeal to members of this committee to join members of the National Association of Social Workers in its work to end discrimination against homosexuals through the extension of fair treatment to them. I encourage the committee to bring AB466 to the full house for passage. Thank you.



**NEVADA
WOMEN'S
LOBBY**

Good morning Mr. Chairman and members of the committee. My name is Sarah Chvilicek, northern division chair for the Nevada Women's Lobby. The Lobby supports SB466 and urges your swift approval.

The Nevada Women's Lobby was established to be a grassroots voice for the people of Nevada. We actively support and lobby for the rights of all people and we value the diversity of our state.

Presently, NRS 201.195 does not provide equal representation under the law. It is an embarrassment to know that a state that prides itself on fair and equal representation has allowed such a statute to remain in place for so long. With the passing of SB466, Nevada will send a clear message that we truly support and honor all people of this state and will guarantee that their rights are protected and upheld under the constitution.

What we are discussing here is not a question of values or morals, but it is a question of constitutionality. Regardless of your personal view it is your moral responsibility to pass SB466. Each of you took an oath to uphold the constitution of Nevada. Here is your opportunity to demonstrate to the people of Nevada that you value our state and its constitution. Vote yes on SB466. Thank you.

Letters and Articles in support of S.B.466

Reno Gazette-Journal: "Repealing anti-homosexual law overdue", editorial, 3 June 1993

Las Vegas Review-Journal: "No place for government, repeal unenforceable law", editorial, 24 May 1993

Presbyterians condemn Colorado law denying civil rights, news item, Reno Gazette-Journal, 9 June 1993

AmFAR AIDS Fact Sheet

Grant Sawyer, letter, 21 May 1993

Jean Ford, letter, 5 June 1993

Joe Crowley, UNR President, letter, 24 May 1993

American Association of University Women, statement

Nevada Women's Political Caucus, letter, 8 June 1993

Community Counseling Center, letter, 7 June 1993

Nevadans for Accountable Government, letter, 24 May 1993

UNLV Students For Choice, letter, 21 May 1993

Planned Parenthood of Northern Nevada, letter, 4 June 1993

NOW, Southern Nevada Chapter, letter, 21 May 1993

AFAN (Aid for AIDS of Nevada), letter, 21 May 1993

Delta Lambda Phi Fraternity, letter, 8 June 1993

Alicia Montgomery, P-FLAG--Southern Nevada Chapter, letter, 21 May 1993

Virginia Uribe, Founder, Project 10, letter, 8 June 1993

Judy Phoenix, Ph.D., statement

Jerry Cade, M.D., letter, 13 May 1993

Gudrun Fonfa, statement

Raven Fonfa, letter, 23 May 1993

Lorraine Koblick, statement

Holly Wilson, P-FLAG--Northern Nevada Chapter, letter

Myra Soifer, Rabbi, Temple Sanai, letter

*Exhibit G: Assembly Judiciary
6-10-1993
Re S.B. 466*

RENO GAZETTE-JOURNAL

OPINION

EDITORIALS

Repealing anti-homosexual law overdue

Nevada Senate shows courage: Now it's up to Assembly to stand for individual rights

Eighty-two years ago, the Nevada Legislature made a major mistake. It passed a law banning sodomy and some other sexual acts between consenting adults. It said, in effect: To hell with individual rights and personal privacy, this is our view of what's acceptable to society.

Sixteen years ago, lawmakers repealed the law. But they also showed that they really learned nothing about the issue by approving the "infamous crime against nature" statute. This time, they banned the sexual acts between consenting adults of the same sex.

Finally, some sanity seems to be returning to Carson City. In a move long needed, the state Senate has endorsed a measure repealing the anti-homosexual law. Furthermore, it made certain sexual activity in public among heterosexuals a felony — to match the existing felony status for homosexuals.

The Senate's 14-6 approval of SB466 is an encouraging sign that a majority of lawmakers understand the awful message the state sends when it targets homosexuals for unjust — and likely

unconstitutional — treatment. The Assembly should give its support following upcoming hearings.

No longer should Nevada be viewed as a state that doesn't respect individual rights. It's time Nevadans said loud and clear that it's no damn business of the state what consenting adults do in private.

Some senators wanted to add amendments to SB466 — some of which have value. But the view of Las Vegas Democrat Matt Callister to not "muddy the waters" prevailed, as it should have.

There is one amendment, though, that merits approval as a separate measure. This is the proposal, originally made by Sens. Ann O'Connell and Ray Rawson of Clark County, that would make the willful transmission of AIDS a felony. Sen. Mark James, R-Las Vegas, introduced such a measure Tuesday as promised.

Because of the AIDS epidemic and other issues related to the homosexual lifestyle, it is not easy for legislators to address such sensitive issues in a meaningful way. But with SB466, they have done so.

Monday, May 24th
Las Vegas Review Journal

No place for government

■ Repeal an unenforceable law.

State Sen. Lori Lipman Brown, a first-term Las Vegas Democrat, has introduced controversial legislation to repeal the state statute criminalizing homosexual sodomy.

This proposal is right for Nevada.

We do not advocate homosexual lifestyles, which we wager most Nevadans don't support. But it is important to differentiate between private morality and state propriety.

Without putting a govern-

ment camera in every bedroom, the Nevada sodomy statute is unenforceable. And it runs counter to the deeply American notion that individuals should be free to conduct their own affairs so long as they don't infringe upon the rights of others. That idea, while eroded in recent decades by government's unremitting intrusion into private matters, forms the bedrock of our constitutional republic, and must be applied equally to everyone.

The views expressed above are those of the Las Vegas Review-Journal. All other opinions expressed on these pages are those of the artist or author indicated.

...ed out his
...lice said.

Church votes on gay issues

ORLANDO, Fla. — The
Presbyterians on Tuesday backed
President Clinton in his bid to allow
homosexuals in the military but
decided not to challenge the Boy
Scouts' ban on gay leaders and scouts.
Delegates to the 205th General
Assembly of the Presbyterian Church
(U.S.A.) also condemned a Colorado
law that would deny state and local
civil rights protection to homosexuals.
The votes came a day after the
assembly affirmed the church's ban on
homosexual clergy but approved a
three-year study of the issue in what
some hoped would achieve unity
within the 2.8-million-member
denomination. On Tuesday evening,
delegates voted down, 302-192, a
resolution urging local churches
housing scouting programs to permit
gay leaders and scouts.



CURRENT STATISTICS • April 1993

Worldwide • 2.5 million people have AIDS, including 1/2 million children.

*Source:
World Health
Organization
(WHO)*

- 13 million people are infected with HIV.
- Over 9 million, or 71% of all HIV infected people, were exposed to the virus through unprotected heterosexual sex.
- 40% of all people infected with HIV are female. One million of those infected are children.
- 40 million people will be infected with HIV by the year 2000, according to estimates by the World Health Organization (WHO). The Harvard AIDS Institute, however, estimates the number of HIV+ people in the year 2000 to be closer to 100 million.

United States

*Source:
Centers for Disease
Control (CDC)*

- The National Center for Health Statistics ranked AIDS 9th among the top ten most common fatal diseases in America.
- 92,630 new AIDS cases were reported in the United States between January, 1991, and December, 1992.
- 253,448 Americans have been diagnosed with AIDS as of December, 1992.
- Between 1 and 1.5 million Americans are infected with HIV.
- 171,890 Americans have died of AIDS as of December, 1992. More people have died of AIDS in America than the total number who died in wars in Korea, Vietnam, and the Persian Gulf combined.
- AIDS is the leading cause of death for men between the ages of 25 and 44.
- White Americans account for 55% of all adult AIDS cases; African Americans account for 28%; and Latino/a Americans, 16%.
- Nearly 85,000 new AIDS cases are expected in the United States in 1993, based on the new CDC definition of AIDS.

Top Ten U.S. Cities with Highest Number of Reported AIDS Cases (as of 12/31/92)

New York City	44,254
Los Angeles	16,518
San Francisco	13,473
Miami	7,452
Washington, DC	7,259
Houston	6,999
Chicago	6,885
Newark	6,073
Atlanta	5,269
Philadelphia	5,255

—over—

LIONEL SAWYER & COLLINS

ATTORNEYS AT LAW

1700 BANK OF AMERICA PLAZA
300 SOUTH FOURTH STREET
LAS VEGAS, NEVADA 89101

(702) 383-8888

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1192-1987
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MARK A. MCINTIRE
JACK R. HANNIFAN

OF COUNSEL
ROBERT M. BUCKALEW

May 21, 1993

WRITER'S DIRECT DIAL NUMBER:

STATE SENATE JUDICIARY COMMITTEE
c/o Hon. Mark James, Chairman

I am familiar with SB466. Please be advised that I fully support the bill as modified. It appears to me that the facilitation, care and treatment of HIV patients is alone sufficient reason for its passage.

Sincerely,



GRANT SAWYER

GS/rc

June 5, 1993

To: Members, Assembly Judiciary Committee
From: Jean Ford *Jean Ford*
Re: Support of SB 466 as amended by the Senate

I have asked that my letter be submitted as part of the record in support of SB 466. I had a prior commitment to serve on the faculty of a Rutgers University institute which prevents me from testifying in person. I currently teach Women's Studies and Political Science at the University of Nevada, Reno, but in this letter I speak only for myself.

As many of you know, I served in this body in the 1973 and 1975 Sessions. While I did not serve on the Assembly Judiciary Committee, I was a member of the Senate Judiciary Committee during the 1979 and 1981 Sessions. I always felt that, of all my committees, it was the Judiciary Committee that dealt most with the issue of Justice and the Law.

Did I enjoy this responsibility? When asked this question, I would always say, "Enjoy is never quite the right word." Some days it was downright tough, especially when people came with strong opposing opinions and emotions ran high.

However, during my four sessions, I can say proudly that we did accomplish much regarding the removal of discriminatory laws. We removed most of the laws that discriminated on the basis of gender. We removed laws that discriminated based on age, on race, and on physical handicaps. Each was difficult, but an overwhelming majority thought injustices in the law should not continue.

Today before you is a bill that asks you to make changes in another discriminatory Nevada law that violates equal protection and privacy rights. I believe that the State has far more important things to do than try to regulate an individual's private behavior.

In preparing my testimony before the Senate committee, I thought of how we allow individuals in this State to openly buy sex in many of our counties. Do we put any guidelines on what kind of sexual practice is allowed? I think not. Surely we can allow consenting adults to go about their private business without government intrusion.

The important thing is to do what is right - in this instance, pass SB 466. Then we can get about the business of educating all Nevadans on why individual privacy rights are so important to protect.

Thank you for your support of this bill.

T H E
J E A N
F O R D
C O M P A N Y

18 Granite Way
Carson City, Nevada 89706
(702) 883-4122

Joseph N. Crowley
President

UNIVERSITY
OF NEVADA
RENO

President's Office (001)
Reno, Nevada 89557-0005;
(702) 784-4805

May 24, 1993

Senator Mark James, Chairman
Judiciary Committee
Nevada State Senate
Carson City, NV 89710

Dear Senator James:

I write in support of Senate Bill 466, which is scheduled for a hearing before your committee on May 24. I am unable to attend the hearing, but want to be on record in support of the bill.

It is simply time, in my opinion for the government of our state to join others around the country in removing itself from the unwanted intrusion in peoples' lives which existing law allows. No useful public purpose is served by existing law. Privacy is invaded, or can be, at great personal cost.

S.B. 466 is legislation whose time has arrived. I urge your vote, and that of the committee, for its passage.

Thank you for your consideration.

Sincerely,


Joe Crowley

sc

cc: Russell West, President,
Graduate Students Association



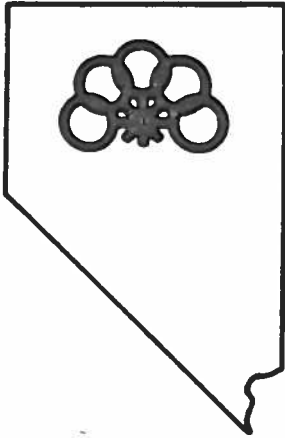
AMERICAN
ASSOCIATION OF
UNIVERSITY
WOMEN
NEVADA

**SB 466
POSITION STATEMENT**

The American Association of University Women of the state of Nevada represents over 650 members, men and women, in eleven branch organizations in Nevada: Boulder City, Carson City, Elko, Fallon, Hawthorne, Las Vegas, Reno, Sparks, Incline Village, Ely and Yerington.

AAUW has long supported individual liberties, the right to privacy and has fought against discrimination based upon gender, race, creed, age, sexual orientation, national origin or disability.

AAUW, Nevada supports the repeal of the "infamous crimes against nature" statute. It is discriminatory and violates the right to privacy. In the interest of fairness and equality for all Nevadans, we ask the Nevada State Legislature to repeal this law.



Nevada Women's Political Caucus

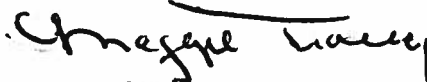
June 8, 1993

MEMBERS OF ASSEMBLY JUDICIARY:

The Nevada Women's Political Caucus supports Senate Bill 466. The Caucus believes in equality for all persons and believes that the repeal of NRS 201.193 is long overdue. If this elected body truly wants to represent the people of this state, they certainly must understand that the "government" does not belong legislating "bedroom activities".

Thank you for your support of Senate Bill 466.

Respectfully,


Maggie Tracey, Chairperson
Nevada Women's Political Caucus

Maggie Tracey, Chairperson
Nevada Women's Political Caucus

COMMUNITY COUNSELING CENTER

1006 E. SAHARA AVENUE • LAS VEGAS, NEVADA 89104 • (702) 369-8700

A Private/Non-Profit Corporation

June 7, 1993

State Assembly
401 S. Carson
Carson City, Nevada 89710

Dear Assembly,

As the director of a large counseling agency, I urge all members of the Assembly to Pass SB 466.

My reasons are many, however, I support the basic tenet of the right of all citizens to privacy and feel that it is the duty of state law-making bodies to uphold that right.

A more pressing matter, however, is preventing the spread of AIDS in our country and in our state. As a licensed therapist I suggest to many of our patients that they participate in the HIV testing process. Many people are hesitant to be tested, however, because of the present crimes against nature law. The fear is that infectious disease reporting will lead to prosecution if same-sex behaviors are revealed.

Thus, persons who are fearful to be tested and refuse, have the potential to spread the disease.

The crimes against nature law provokes fear in persons with unchangeable and choiceless homosexual orientation. Fear as an emotion tends to be very fragmenting and disorienting and can cause impaired judgement leading to haphazard sexual behavior that can indeed cause the spread of AIDS. This is a time when sexual behavior must be methodical and safe. Impaired judgement due to fear sabotages such possibilities. Prevention of HIV requires open communication. It is imperative that you pass SB 466.

Sincerely,


Ronald W. Lawrence
Executive Director

RWL/mkn



A United Way
Sponsored Agency

NEVADANS FOR ACCOUNTABLE GOVERNMENT
3680 Grant Drive, Suite J
Reno, Nevada 89509
(702) 827-4200

May 24, 1993
Senate Judiciary Committee
Nevada State Legislature
RE: S.B. 466

Good afternoon. My name is Bob Fulkerson. I am representing Nevadans for Accountable Government, a new statewide organization dedicated to building a broadbased lobbying and electoral network of progressive organizations and individuals. We urge this committee to recommend passage of Senate Bill 466.

Nevada's current statute barring sexual acts between consenting adults of the same sex behind closed doors is archaic and discriminatory. Privacy--or freedom from unauthorized intrusion--is a fundamental human right. The sodomy statute is a grave infringement upon this right. If respect for individual liberty and privacy are hallmarks of Americanism, then Nevada's sodomy law can only be described as un-American. The statute is a constant threat and reminder to me and tens of thousands of others who live here that the State can, at any time, lock us up for years. And for what? For doing nothing so dissimilar than what the heterosexual majority does with impunity.

The sodomy law makes me a criminal in the eyes of the state. I share custody with my ex-wife of our 6-year old daughter. Because I routinely break the state sodomy law, a Nevada judge could legally extinguish my parental rights. I'm greatly angered and shamed to live in a state whose law dictates that I'm an outlaw and unfit to be a father.

In closing, I strongly urge you to pass this bill, and commend Senator Lori Brown and other supporters for their dedication to and respect for fundamental human liberties. Thank you for this opportunity to speak.

May 21, 1993

To whom it should concern,

UNIV Students For Choice would like to express our firm conviction in favor of the passage of SB466. We believe that the Crimes Against Nature Law is an extreme invasion of privacy, as well as an example of homophobia.

We, as Students For Choice, believe in the fundamental right to decide what to do with ones body and with whom. Whether it be choosing to continue or terminate a pregnancy, or deciding to engage in sexual activities with someone of the same sex, each is a personal decision to be made without governmental interference or regulation.

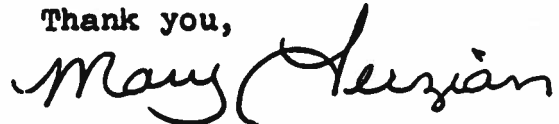
Along with the Crimes Against Nature Law being an invasion of privacy, it is also blatantly homophobic. It is our understanding that the law, before 1980 applied to all persons engaging in sodomy or oral sex. Since it has been revised to apply to only those engaging in same-sex acts, it is clearly not a rejection of the acts themselves, but of a certain group of people that engage in them, namely, people that are gay, lesbian, or bi-sexual;

As a final note, we find it insulting that there is legal discrimination against this form of sexuality, while there are no measures being taken to stop the exploitation of women's bodies in the form of the numerous topless bars and brothels here in Nevada. While we are certainly not encouraging any such measures, we also want to discourage any laws that put

restrictions on what adults do with other consenting adults.

Once again, we urge you to consider what a law like the Crimes Against Nature Law is really about. With this in mind, we fully support the passage of SB466.

Thank you,

A handwritten signature in cursive script that reads "Mary Terzian". The signature is written in black ink and is positioned to the right of the typed name.

Mary Terzian
Co-Chair Students For Choice

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Affiliated with Planned
Parenthood Federation
of America, Incorporated

June 4, 1993

Members of the Assembly Judiciary Committee
Nevada State Legislature
Carson City, NV 89710

Dear Assemblymen:

Re: SB 466

On behalf of Planned Parenthood of Northern Nevada I am writing to endorse SB 466, the bill which repeals the prohibition against private sexual conduct between consenting adults.

These prohibitions do not serve Nevada well, and are very definite infringements upon the individual's right to privacy. The government should not be regulating private lives.

Very truly,



Louise Bayard-de-Volo, Ed.D.
Executive Director



Southern Nevada Chapter

Nevada Assembly
Legislative Bldg.
401 S. Carson St.
Carson City, Nevada 89710

May 21, 1993

Dear Assembly Person:

Currently before you is a bill to repeal the antiquated and unconstitutional "Crimes Against Nature" law. As I'm sure you are already aware, the National Organization for Women (N.O.W.), is against any and all laws that are discriminatory and/or invade a person's constitutional right to privacy.

As the president of the Southern Nevada Chapter of N.O.W. (SNC N.O.W.), I have been authorized by our national headquarters and the approximately six-hundred (600) Nevada N.O.W. members to urge your support of SB 466 and the repeal of the "Crimes Against Nature" law.

Thank you for your time and support.

Cordially,

Pamela J. Gallina
President, SNC N.O.W.

Central Office
1111 Desert Lane
Las Vegas, NV 89102

(702) 382-2328 - Office
(702) 388-1609 - FAX
(702) 474-2437 - Hotline



West Community Service Center
900 W. Owens Bldg. #5
Las Vegas, NV 89030

(702) 648-0177 - Office
(702) 648-1367 - FAX
(702) 474-2437 - Hotline

May 21, 1993

Senator Mark James, Chairman
Senate Judiciary Committee
Nevada State Legislature
Carson City, NV 89710

Re: SB 466

Dear Senator James;

I am writing to inform you that Aid for AIDS of Nevada (AFAN) supports SB 466. While there may be many valid reasons for the bills passage, we are in support of the passage of SB 466 from the perspective of HIV/AIDS Service and Prevention.

Nevada has one of the highest rates of AIDS per hundred thousand people in the nation. AIDS is a major health issue for us in Nevada, but we need to address HIV disease with reason, compassion, and most definately fairness.

AFAN is the oldest and largest Community Based Non-Profit organization in Nevada dealing solely with HIV/AIDS. We provide comprehensive social services to people with HIV disease and their families (including case management, support groups, financial assistance, etc.), and Outreach Prevention Education to the community at large.

As a result of our activities, we see the controversy about whether or not physicians and labs should report HIV+ individuals to the appropriate health authorities.

Such reporting creates a mechanism for partner notification of potential exposure. Likewise, these people can then be tested, counseled about the spread of HIV, and introduced into the medical system immediately of needed.



Your United Way gift helps here. *Thanks!*

May 21, 1993 Ltr to Senator Mark James regarding SB 466

The major barrier to this approach, in Nevada, is founded in the "crimes against nature" statute which criminalizes the behavior of a large number of the individuals who might be infected with HIV disease. This creates a fear (whether real or perceived) which fosters non-notification both by providers and partners. The result is denial, and/or continued inadvertent spread of the virus.

Should you desire any further information regarding our experiences and understandings regarding HIV and the impact of SB 466, please call me directly.

Thank you for your time and consideration.

Best Regards;



Gregory W. Durrett
Executive Director
GD/cv

cc: Committee Members
AFAN Board of Trustees

Delta Lambda Phi Fraternity
Mu Chapter, University of Nevada, Las Vegas
P.O. Box 70972
Las Vegas, NV 89170

June 8, 1993

Assembly Judiciary Committee
Legislative Building
Capitol Complex
Carson City, NV 89710

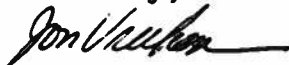
To the Members of the Nevada Assembly Judiciary Committee:

The brotherhood of Delta Lambda Phi Fraternity, Mu Chapter, the University of Nevada, Las Vegas, urges all members of the Nevada Assembly Judiciary Committee to support SB466 without additional amendments.

There can be no doubt that the "Crimes Against Nature" law is an extreme breach of individual privacy. This archaic law is virtually unenforceable--unless police are allowed into the bedrooms of Nevadans. Detractors of SB466 claim that repeal of Nevada's "sodomy" law will put our children at risk. The fact is, this law does nothing to remove protections Nevada's children currently have against abuse.

Support for SB466 does not constitute an endorsement of a particular "lifestyle" or sexual practice. What it does endorse is the American tradition of the right to privacy. Let's keep the police out of the bedrooms of consenting adults. I urge you to support SB466 without additional amendments.

Thank you.
Sincerely,



Jon Vreeken
Correspondent Secretary

P-FLAG Parents & Friends of Lesbians and Gays

1000 East Sahara, Las Vegas, Nevada 89104
Mailing address: P.O. Box 20148, Las Vegas, NV 89112

(702) 388-8700
HELPLINE: (702) 438-7838

State Senator
Legislative Blvd.
401 S. Carson
Carson city, NV 89710

May 21, 1993

Dear Senator,

You will soon be considering a bill to repeal Nevada's "crimes against nature" statute. I urge you to support the REPEAL of this statute. It is UNCONSTITUTIONAL, it breaches a person's civil rights and it is hurting Nevada's ability to handle the AIDS crisis.

Parents and Friends of Lesbians and Gays (PFLAG) is a group mostly of parents of gays and lesbians who strive to provide support for parents to share their experiences with others in order to learn how to support their gay sons and daughters with love and pride. This is very difficult when there is an old "law" on the books that tell these parents their children are committing a crime, when, in fact, these children are only trying to live their lives as decent and responsible human beings.

Currently, these young people are at high risk for serious social and emotional problems including alcohol and other drug abuse, teen pregnancy, dropping out of school, HIV-AIDS infection and suicide. These youth are not at high risk because they are lesbian or gay--their distress is a direct result of the hatred and prejudice that surround them. Because of this archaic law, individuals are not getting tested for fear of losing jobs, losing housing and being 'outed' in a state that threatens to take away their liberties. It is no wonder Nevada has one of the highest AIDS attack rates per capita in the nation.

Teenage suicide among gay and lesbian teens has skyrocketed. In fact, of teenagers who commit or attempt suicide, 30% are gay or lesbian. What message are we sending to teens that they choose to end their lives; and how can we address their issues and give them balanced options when their lifestyles are criminalized?

According to the Nevada Constitution, the "crimes against nature" law is in direct conflict. I urge you to look beyond stereotypes, and the lies you recognize as definitions of the gay and lesbian community. They are your family, your friends, your constituents and my child. It's time to change and give my child the same advantages and respect, share in the guarantees of our federal and state constitutions and the promise of liberty and justice for all.

Thank you for your concern and compassion.

Sincerely,

Olivia Montemey
Officer

We love our gay family members & friends... We help others to understand.



**PROJECT 10: FAIRFAX HIGH SCHOOL
LOS ANGELES, CALIFORNIA**

June 8, 1993

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*Virginia Uribe PhD, Founder
Project 10, Los Angeles Unified
School District*

Nevada State Assembly
Judiciary Committee

Dear Assemblypersons:

It has come to my attention that the Project 10 program I started for the Los Angeles Unified School District nearly ten years ago has been the subject of much discussion in your committee. Because I think that Project 10 has been mischaracterized and deliberately placed in a pejorative light, I am taking this opportunity to give you a brief description of the program.

First, Project 10 is not a class or a course, and it is completely voluntary in every respect. Project 10 is a dropout prevention program that offers support, information and resources to young people who identify themselves as gay, lesbian, bisexual, or who simply want accurate information about sexual orientation. Project 10 began in 1984 at Fairfax High School (LAUSD) as a response to suicide, alcohol/substance abuse and the risk of AIDS among teenagers in this target group. Project 10 was started because for gay and lesbian teenagers school is often a lonely and frightening place to be. School harassment and the many negative things said about homosexuals cause many of them to attempt suicide or engage in other self-destructive actions. This is intolerable in an education system that is dedicated to building self-esteem and to teaching all children how to live in an increasingly diverse society.

Finally, I would mention that the Project 10 program has been favorably cited in many educational journals including the Harvard Educational Review, Education Week, Ed Digest and the Journal of Pediatrics, among others. I hope that if you have further questions about this program you will contact me directly at 213-651-5200, Ex. 244, or by Fax at 213-651-5803.

Sincerely,

Virginia Uribe, PhD
Founder, Project 10, LAUSD

**JUDY PHOENIX, PH.D.
216 MT. ROSE ST.
RENO, NV. 89509
(702)322-5055**

To the members of the Nevada State Senate Judiciary Committee:

Re: SB 486

I am a clinical psychologist in private practice in Reno, Nv. I am also a second generation Nevadan, born in Elko, educated in Nevada schools. I am licensed as a Clinical Psychologist and a Certified Substance Abuse Counselor in Nevada.

I have seen mostly heterosexual clients, during training, internships, and then private practice in the last 20 years. I have also seen many, many gay and lesbian persons as patients. I would like to tell you about some of the similarities and differences of these two groups.

Most professionals agree that homosexuality is not a choice that people make, not a "lifestyle", but rather a matter of biochemistry, neurology and very early life experiences. They are "hard-wired" to be attracted to persons of the same sex.

Our laws do not interfere with a person's private attractions, but as we all know, private attractions are the stuff of relationships, and relationships include intimacy and, sometimes, sex. Currently our laws do address this very private matter of sex between consenting adults when the adults are of the same sex. Although the law is not often enforced, everyone who falls under it's venue feels the force of it - they are criminals under the law. I am not speaking of people who engage in public sexual conduct or persons who have sexual relations with minors. There are already laws which apply to those behaviors. I am speaking of otherwise law-abiding citizens who find themselves in the position of breaking the law because of who they love.

Heterosexual couples and "straight" single people come to psychotherapy for a variety of reasons. Homosexual couples and singles seek treatment for the same reasons. The differences between homosexual and heterosexual people are many fewer than the similarities. Gay people are couples who have been together for years of commitment, single persons, conservatives and liberals, whites and people of color, professionals and blue collar workers, rich and poor. What all homosexuals have in common is the problem of dealing with cultural stereotypes and prejudices.

The American Psychiatric Association and the American Psychological Association removed homosexuality from the list of mental disorders in 1973. In the last twenty years we in the mental health professions have begun to undo some of the damage we had previously done to gays and lesbians by labeling them as "sick" and "deviant". Our job now is to help the homosexual patient come to terms with the choices he or she does have to make: how to express the feelings they have toward people of the same sex, who to tell about these feelings, how to deal with job loss, loss of family, loss of children, loss of standing in the community, if knowledge of their sexual preference is used against them.

Homosexuals have all the usual household traumas, life stresses, relationship problems and mental illnesses, just like the rest of us, but in addition, they have to deal with being different and at times vilified. What helps is to be able to be open and honest about their relationships: to be hidden and fearful is much more damaging to the psyche.

In this private matter of sexual conduct between consenting adults, there is no longer a place for the state to have an interest, any more than it is the place of the state to be interested in the private behavior between consenting heterosexual adults. This is a matter of privacy and fairness. It is time for Nevada to change the way it treats this segment of its population - it is time to do away with archaic laws which unnecessarily persecute an otherwise law-abiding portion of our population.

I support SB 466 because it will improve the quality of life of many of my patients, but I also support it as a person who does not believe that prejudice should be the basis for law.

Thank you for considering this matter.

Sincerely,

Judy K. Phoenix, Ph.D.

Jerry Cade, M.D.

General Practice

May 13, 1993

Dear :

You will soon be considering SB 466, a bill to repeal Nevada's "crimes against nature" statute. There are many reasons to overturn this law. One of my concerns is from my perspective as a physician.

Nevada has one of the highest AIDS attack rates in the nation. "Attack rate" is the number of AIDS cases per hundred thousand people. The explanations for this are multiple and complex. To me, the causes are irrelevant. AIDS is a major health care problem for us in Nevada. We need to address HIV disease with reason, vision and compassion.

Death is probably difficult to accept at any age. I find it particularly hard to watch such young women and men die during what should be the most productive years of their lives.

I am the co-founder of University Medical Center's AIDS inpatient ward and outpatient clinic. I still serve as Medical Director of HIV Services at University Medical Center. We have taken care of hundreds and probably thousands of people with HIV disease.

I am also a member of the Nevada Statewide AIDS Advisory Task Force — a body created by Senator Bryan when he was Governor. Our task has been to suggest a number of strategies to help prevent the spread of AIDS in Nevada. We have offered a number of recommendations about health care, education, funding and legislation.

We had an extremely protracted discussion about whether or not physicians and labs should report HIV - Antibody positive individuals to the appropriate health authorities. This would allow public health personnel to ensure that these HIV-infected individuals were introduced as early as possible into the health care system.

2300 West Charleston Blvd

Suite 259

Las Vegas, Nevada 89102

Appointments: 702.877.519

Office: 702.877.8600

After Hours: 702.739.8206



Reporting HIV-Antibody positive results would also create a mechanism for notifying the partners of these HIV-infected individuals that they were potentially exposed to the AIDS virus. Likewise, these partners could be tested, introduced to medical care and counseled about their risk of spreading HIV Disease. Traditionally, public health has always operated in this manner.

In Nevada, one of the concerns about this approach was the barrier erected by the "crimes against nature" statute which criminalizes the behavior of a large number of the individuals who might be HIV-infected. We felt this law was archaic and needed to be repealed.

I have included the entire anti-discrimination policy adopted by the Statewide AIDS Advisory Task Force. I have boxed the last paragraph of the second page which addresses this issue.

I have also enclosed the membership of the task force. We are an eclectic, statewide body representing a number of disciplines. Our vote on this policy was 9-0. There was no dissension.

Notwithstanding the privacy, constitutional and civil rights issues involved in the repeal of this statute, our task force felt there were compelling medical reasons to eliminate the "crimes against nature" law.

I will be happy to provide you with any additional information you might need. My home address is : 84 Megan Drive; Henderson NV 89014. My home phone number is (702) 897-7455.

Thank you for your time, attention and concern.

Warmly,

Jerry Cade, M.D.

JCAb

Enclosures

May, 1993

Senator Mark James
Chairman Judiciary Committee

Dear Senator James:

I am an eleven year resident of Las Vegas, it has taken some time for me to adjust to the "community standards" and the laws that allow behavior other states condemn. I'm referring specifically to billboards for "Nudes on Ice", prostitution in rural counties, etc.

Our tourism has depended on a free-wheeling image of "adult" entertainment. Sex is packaged as smutty and voyeristic to appeal to immature men stunted in fourth grade bathroom humor.

Yet we have the antiquated "infamous crimes against nature" law which in this day and age should refer to polluting the environment but instead makes criminals out of citizens who engage in lovemaking in the privacy of their own homes.

This law comes from Victorian England when "the rule of thumb" law literally read "a husband cannot beat his wife with a stick thicker than his thumb." It seems that hate is stronger than love. Only legislators who are committed to cruelty and injustice could uphold such laws.

Yours truly,


Gudrun Fonfa

May 23, 1992

Senator Mark James, Chairman
Judiciary Committee

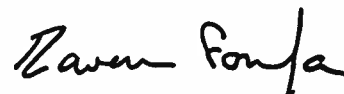
Dear Senator James:

As a college student, I am looking forward to a future of burgeoning opportunity, choice and freedom.

As an eleven-year resident of Nevada, I am outraged that we have a law that restricts the basic constitutional rights of our citizens. The "Infamous Crimes Against Nature" law is incommensurable with the fundamental principles of our state.

The future of Nevada is in your hands. Please repeal this old-fashioned law holding us back.

Sincerely,



Raven Fonfa
1820 Hasset Ave.
Las Vegas, Nevada
89104

May 1993

I am a Senior Citizen living in Las Vegas, Nevada, for many years.

I think it is time to get rid of laws like the "Innocent Crimes Against Nature".

We do live in a country of diverse sexual practices and legislation of this type infringes on sexual freedom.

Las Vegans believe in rugged individualism.

I am proud to live in Nevada and support this changing attitude.

Very truly yours,
Mrs. Lorraine Koblick
1820 Hasset Avenue
Las Vegas NV 89104

June 10, 1993

To: Bob Sader, Chairman
Members of the Assembly Judiciary Committee

Re: SB466 - Repealing the "Crimes Against Nature Law"

I come before you today, not only as a member and representative of the international organization, Parents and Friends of Lesbians and Gays, but as a mother.

I have been blessed with two outstanding daughters. One is a landscape architect, the other is a commercial airline pilot.

Both were raised in the same environment by loving parents.

They are both avid skiers (one is an instructor), cyclists, hikers and campers.

They are both consumers and taxpayers.

They are both loving and sensual human beings.

One happens to be a lesbian, one happens to be heterosexual. It doesn't matter to me.

What matters to me is the oppression, bigotry and hatred directed at one while the other is afforded privileges the other is not.

Unless you know us personally, you cannot tell which daughter is which. I can tell you this, both are popular in their own and each others communities. They are not accepted or rejected because of their sexual orientations.

Their sexual orientation was not a choice. They did not choose their orientation any more than they chose their hair, skin or eye colors,

As my lesbian daughter would ask you, "Who would choose to be something so many fear and hate?"

I do not want to get into the religious issue as I would be just as guilty in judging others as they have judged. I do, however, feel there is a very dangerous element infiltrating our governments and they are dictating their beliefs, what they perceive to be right or wrong, and getting laws passed

2-2-2

in the guise of "morality."

I vehemently oppose the Nevada Crimes Against Nature Law (or any Sodomy law such as SB466) as discriminatory and a violation of equal rights under the Constitution of the United States.

The government has no place in the bedroom. It is already unwelcome in many areas of our lives. Let's keep one area which is a very intimate and private area of our lives, free from Big Brother.

This state has legalized prostitution and I don't even want to begin to know what goes on behind those bedroom doors, much less anyone else's, but whatever it is it's legal. How ludicrous.

This law is just taking up time and space in the Nevada statutes and as a taxpaying citizen, I resent my money being wasted on laws denying human and equal rights to its citizens.

Signed:



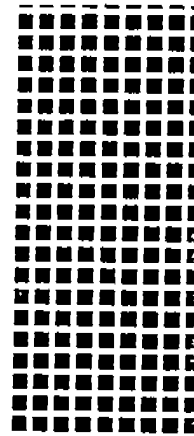
Holly Wilson
1685 Whitewood Dr.
Sparks, Nevada 89434

Table 1: THE HOMOSEXUAL LIFESPAN

	AIDS				Not AIDS				Violent Deaths	
	total <i>n</i>	partner age-range	<i> Md</i>	no partner age-range	<i> Md</i>	partner age-range	<i> Md</i>	no partner age-range		
<i>Just Out</i> (Portland)	27	5 20-41	40	11 28-55	38	8 30-36	34	4 24-52	41	5
<i>New York Native</i>	92	18 30-53	38	53 28-72	40	6 27-81	49	15 31-59	45	15
<i>Gay Comm News</i>	96	27 27-60	39	47 21-66	39	7 26-69	37	15 29-76	43	7
<i>Bay Windows</i> (Boston)	100	34 28-47	36.5	37 26-65	37	11 27-70	37	8 29-47	37	3
<i>Bay Area Reporter</i>	3286	710 23-68	39	1325 22-70	39	78 20-80	42	186 17-85	45	42
<i>Windy City Times</i>	314	93 26-59	38	131 23-71	38	18 27-71	43	31 29-64	41	8
<i>Update</i> (San Diego)	460	165 25-64	40	232 23-65	40	18 25-73	44	37 28-76	50	11
<i>Seattle Gay News</i>	353	72 29-62	38	115 24-66	36	8 26-53	36	38 16-77	37	13
<i>Mom... Guess What?</i>	66	17 31-54	40	23 27-60	39	3 24-46	38	2 33,56		
<i>Southern Voice</i> (All)	7	2 32,44		4 36,46	38.5					
<i>Philadelphia Gay News</i>	42	7 30-58	40	17 27-54	39	2 42,44	39	6 30-52	35	5
<i>Equal Time/GLC Ns</i>	74	19 24-47	39	30 27-49	36	4 34-52	36	13 21-62	41	8
<i>Advocate</i> (national)	160									
<i>Washington Blade</i>	1424	498 23-71	37	628 23-67	37	78 24-71	42	131 17-89	42	50
<i>Our Front</i> (Denver)	69		24-58	36						1
Lesbians	140		15-93	45						28

Note: Those obituaries that did not list an age or cause of death are included only in the *total n*.

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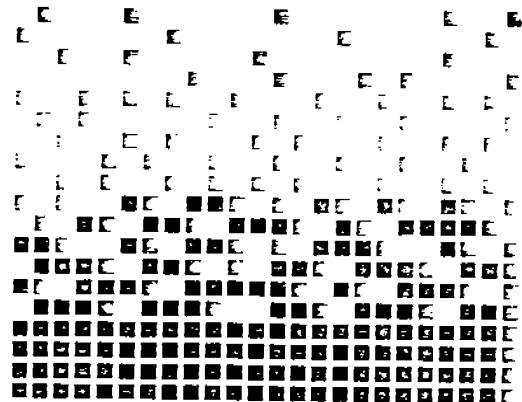


Child Molestation

and



Homosexuality



This educational pamphlet has been produced by Family Research Institute, Inc., Dr. Paul Cameron, Chairman. Other publications in the series include:

Medical consequences of what homosexuals do, Born WHAT way? and What causes homosexual desire and can it be changed? Suggested donation for publications is : 11 for \$5, 25 for \$10, 100 for \$35, 350 for \$100, 1,000 for \$250, 2,000 for \$450, 10,000 for \$2,000 postpaid.



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Ann Landers¹ says the statement "Homosexuals are more inclined to molest children sexually than heterosexuals" is false. The American Psychological Association has sponsored a work that asserts: "Recognized researchers in the field on child abuse,... almost unanimously concur that homosexual people are actually less likely to approach children sexually."²

Why is it, then, that we read about sex between boys and men in every newspaper? Does it merely reflect sensationalist journalism? We know that heterosexual molestation also occurs. But since there are so many more heterosexuals than homosexuals, which kind of child molestation — homosexual or heterosexual — is proportionately more common?

The Scientific Evidence

Three kinds of scientific evidence point to the proportion of homosexual molestation: 1) survey reports of molestation in the general population, 2) surveys of those caught and convicted of molestation, and 3) what homosexuals themselves have reported. These three lines of evidence suggest that the 1%-to-3% of adults who practice homosexuality³ account for between a fifth and a third of all child molestation.

Reports of Molestation by the General Population

In 1983, a probability survey of the sexual experiences of 4,340 adults in 5 U.S. cities found that about 3% of men and 7% of women reported sexual involvement with a man before the age of 13⁴ (i.e., 30% was homosexual).

In 1983-4, a random survey of 3,132 adults in Los Angeles found that 3.8% of men and 6.8% of women said that they had been sexually assaulted in childhood. Since 93% of the assailants were male, and only 1% of assaults had been assaulted by females, about 35% of the assaults were homosexual.⁵

The *Los Angeles Times*⁶ surveyed 2,628 adults across the U.S. in 1985. 27% of the women and 16% of the men claimed to have been sexually molested. Since 7% of the molestations of girls and 93% of the molestations of boys were by adults of the same sex, about 4 of every 10 molestations in this survey were homosexual.

In a random survey of British 15-to-19 yr olds, 35% of the boys and 9% of the girls claimed to have been approached for sex by adult homosexuals and 2% of the boys and 1% of the girls admitted to succumbing.⁷

In science, a review of the professional literature published in a refereed scientific journal is considered to be an accurate summary of the current state of

knowledge. The latest such review was published in 1985.⁸ It concluded that homosexual acts were involved in 25% to 40% of the cases of child molestation recorded in the scientific and forensic literature.

Surveys of Those Convicted

Drs Freund and Heasman⁹ of the *Clarke Institute of Psychiatry* in Toronto reviewed two sizeable studies and calculated that 34% and 32% of the offenders against children were homosexual. In cases they had personally handled, homosexuals accounted for 36% of their 457 pedophiles.

Dr. Adrian Copeland, a psychiatrist who works with sexual offenders at the *Peters Institute* in Philadelphia, said¹⁰ that, from his experience, pedophiles tend to be homosexual and "40% to 45%" of child molesters have had "significant homosexual experiences."

Dr. C. H. McGaghy¹¹ estimated that "homosexual offenders probably constitute about half of molesters who work with children." Other studies are similar:

— Of the approximately 100 child molesters in 1991 at the *Massachusetts Treatment Center for Sexually Dangerous Persons*, a third were heterosexual, a third bisexual and a third homosexual in orientation.¹²

— A state-wide survey of 161 Vermont adolescents who committed sex offenses in 1984 found that 35 (22%) were homosexual.¹³

— Of the 91 molesters of non-related children at Canada's *Kingston Sexual Behaviour Clinic* from 1978-1984, 38 (42%) engaged in homosexuality.¹⁴

— Of 52 child molesters in Ottawa from 1983 to 1985, 31 (60%) were homosexual.¹⁵

In England for 1973, 802 persons (8 females) were convicted of indecent assault on a male, and 3,006 (6 of them female) were convicted of indecent assault on a female (i.e., 21% were homosexual). 88% of male and about 70% of female victims were under age sixteen.¹⁶

Because of this pattern, Judge J. T. Rees concluded that "the male homosexual naturally seeks the company of the male adolescent, or of the young male adult, in preference to that of the fully-grown man. [In 1947] 986 persons were convicted of homosexual and unnatural offences. Of those, 257 were indictable offences involving 402 male victims.... The great majority of [whom]... were under the age of 16. Only 11%... were over 21."

"[T]he problem of male homosexuality is in essence the problem of the corruption of youth by itself [i.e., by other boys] and by its elders. [And thereby]... the creation... of new addicts ready to corrupt a still further generation of young men and boys in the future."¹⁷

What Homosexuals Adm.

The 1948 Kinsey survey found that 37% of the gays and 2% of the lesbians admitted to sexual relations with under-17-yr-olds, and 28% of the gays and 1% of the lesbians admitted to sexual relations with under-16-yr-olds while they themselves were aged 18 or older.¹⁸

In 1970 the Kinsey Institute interviewed 565 white gays in San Francisco: 25% of them admitted to having had sex with boys aged 16 or younger while they themselves were at least 21.¹⁹

In the *Gay Report*, 23% of the gays and 6% of the lesbians admitted to sexual interaction with youth less than 16 years of age.²⁰

In France, 129 convicted gays²¹ (average age 34 years) said they had had sexual contact with a total of 11,007 boys (an average of 85 different boys per man). Abel *et al* reported similarly that men who molested girls outside their family had averaged 20 victims each; those who molested boys averaged 150 victims each.²²

Summary

About a third of the reports of molestation by the populace have involved homosexuality. Likewise, between a fifth and a third of those who have been caught and/or convicted practiced homosexuality. Finally, a fifth to a third of surveyed gays admitted to child molestation. All-in-all, a rather consistent story.

RECONCILING SEXUAL INSTINCTS

Nowadays parents are labeled bigots for fearing that homosexual teachers might molest their children. But if homosexuals are more apt to molest children and are in a position to take advantage of them, this fear makes sense. Indeed, accounts of disproportionate homosexual teacher molestation appear throughout the scientific literature.

The original U.S. Kinsey study reported that 4% of the non-criminal white gays and 7% of the non-criminal white lesbians reported that they had their *first* homosexual experience with a 'teacher or other caretaker.' *None* of the heterosexuals were recorded as having a teacher as their first sex partner.¹⁸

In England, Schofield reported that at least 2 of his 150 homosexuals had their *first* homosexual experience with a teacher and an additional 2 reported that their first homosexual contact with an adult was with a teacher. One of the 50 men in his comparison group had also been seduced by a homosexual teacher, while none of the men interviewed claimed involvement with a heterosexual teacher.²³

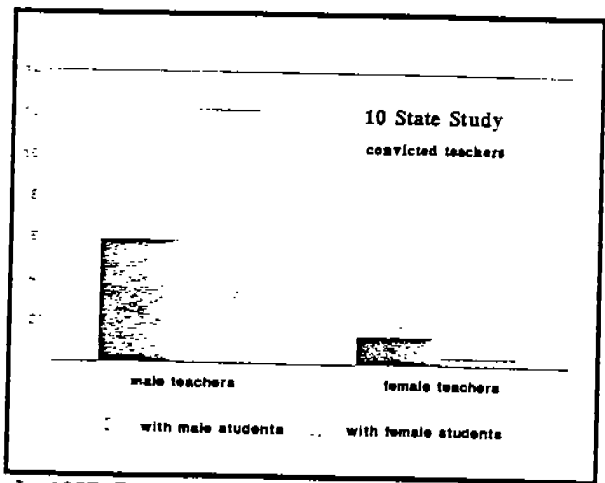
heterosexual (65%)



homosexual (35%)

In the 1978 *McCall's* magazine study of 1,400 principals,²⁴ 7% reported complaints about homosexual contact between teachers and pupils and 13% reported complaints about heterosexual contact between teachers and pupils (i.e., 35% of complaints were homosexual). 2% "knew of instances in which teachers discussed their homosexuality in class."

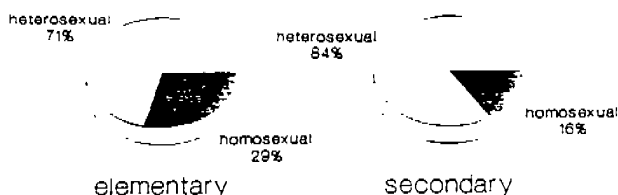
Of 400 consecutive Australian²⁵ cases of molestation, 7 boys and 4 girls were assaulted by male teachers. Thus 64% of those assaults were homosexual.



In 1987, Dr. Stephen Rubin, associate professor of psychology at *Whitman College*, conducted a 10 state survey²⁶ and found 199 sexual abuse cases involving teachers. 122 male teachers had abused female pupils and 14 female teachers had abused male students. In 59 cases, however, male teachers had abused male pupils and in 4 cases female teachers had abused female students (overall 32% were homosexual).

A 1983 survey asked 4,340 adults to report on *any* sexual advances and *any* physical sexual contact by elementary and secondary teachers (4% of those who

Teacher Sexual Advances



were teachers in the survey claimed to be bisexual or homosexual).⁴ 29% of the advances by elementary and 16% of the advances by secondary school teachers were homosexual. In addition, 1 of 4 (25%) reports of actual sexual contact with an elementary school teacher were homosexual. In high school, 8 (22%) of 37 contacts between teacher and pupil were homosexual. 18% reported having had a homosexual teacher (8% of those over the age of 55 vs 25% of those under 26). Of those reporting a homosexual teacher, 6% said that the teacher influenced them to try homosexuality and 13% of the men and 4% of the women said that the teacher *made sexual advances toward them*.

Summary

Whether examining surveys of the general populace or counts of those caught, homosexual teachers are disproportionately apt to become sexually involved with children.

Proportionality: The Key

Study after nationwide study³ has yielded estimates of male homosexuality that range between 1% and 3%. The proportion of lesbians in these studies is almost always lower, usually about half that of gays. So, overall, perhaps 2% of adults regularly indulge in homosexuality. Yet they account for between 20% to 40% of all molestations of children.

Child molestation is not to be taken lightly. Officials at a facility which serves about 1,500 runaway youngsters each year estimate that about half of the boys have been homosexually abused and 90% of the girls heterosexually assaulted.²⁷ Investigation of those suffering severe chronic mental illness implicates child molestation as a primary cause (45% of Bigras *et al*'s²⁸ patients were homosexually abused).

If 2% of the population is responsible for 20% to 40% of something as socially and personally troubling as child molestation, something must be desperately

wrong with that 2%. Not every homosexual is a child molester. But enough gays do molest children so that the risk of a homosexual molesting a child is 10 to 20 times greater than that of a heterosexual.

Goals of the Gay Movement

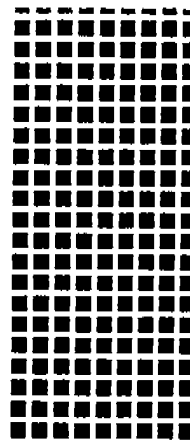
The gay movement is forthright about seeking to legitimize child-adult homosexual sex. In 1987, *The Journal of Homosexuality*, the scholarly organ of the gay rights movement, published "Pedophilia and the Gay Movement."²⁹ Author Theo Sandfort detailed homosexual efforts to end "oppression towards pedophilia." In 1980 the largest Dutch gay organization (the COC) "adopted the position that the liberation of pedophilia must be viewed as a gay issue... [and that] ages of consent should therefore be abolished... by acknowledging the affinity between homosexuality and pedophilia, the COC has quite possibly made it easier for homosexual adults to become more sensitive to erotic desires of younger members of their sex, thereby broadening gay identity." In 1990 COC achieved a significant victory: lowering of the age of consent for homosexual sex in Holland to 12 (unless the parents object, in which case it goes up to 15).³⁰ In the U.S. and Canada, the *North American Man-Boy Love Association* marches proudly in many gay pride parades with the stated goal of removing the barriers to man-boy sex. Note the phrases "oppression towards pedophilia" and "liberation of pedophilia." It is clear that those who advocate the legalization of sex between adults and children intend to argue that such conduct is a "civil right," deserving of the same legal protections afforded to other minorities. A large proportion of Americans regard that argument as a mere pretext to giving "sexual predators" free reign to take advantage of vulnerable children.

Conclusion:

Not only is the gay rights movement upfront in its desire to legitimize sex with children, but whether indexed by population reports of molestation, pedophile convictions, or teacher-pupil assaults, there is a strong, disproportionate association between child molestation and homosexuality. Ann Landers' claim that homosexuals molest children at no higher a rate than heterosexuals do is untrue. The assertion by gay leaders and the American Psychological Association that a homosexual is less likely than a heterosexual to molest children is patently false.

is encountered in the gay subculture. Most of the murderers in the lifespan study whose sexual orientation could be determined were also homosexual. While violence toward homosexuals is deplorable, most violence involving gays is self-induced (and the gay subculture may export more violence than it absorbs from without).

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Violence

and



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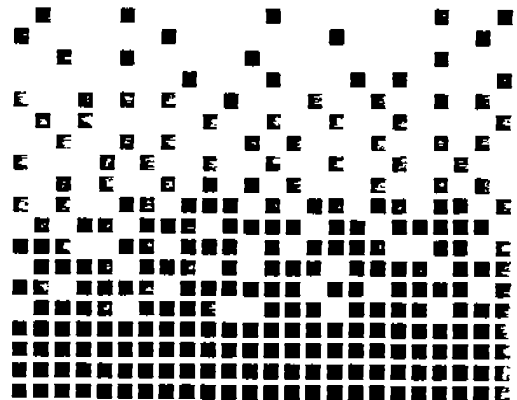
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Homosexuality



In 1992 two Jeffersonville, Indiana lesbians, aged 17 and 16, abducted a 12-year-old girl whom they accused of trying to "steal a girlfriend." The little girl was pushed into the trunk of a car, stabbed repeatedly, and beaten with a heavy metal bar. While still struggling, they poured gasoline on her and set her ablaze. Later that year a Fort Lauderdale, Florida 14-year-old was convicted of first-degree murder for helping to kill his 40-year-old father. The father "was stabbed 45 times and beaten so badly with an iron skillet that the skillet shattered." The boy confessed that he helped his father's former homosexual lover and roommate kill him so he and the 31-year-old "could live together."

These murders fit traditional psychiatric opinion: excessive violence is naturally associated with other forms of social pathology. From this perspective, those who rebel against society's norms — homosexuals, prostitutes, alcoholics, etc. — are more apt to be violent also. Gay leaders reply that they are not pathological, rebellious, or sexually deviant. They contend that gays are gentle, loving people and that the violence they experience proves that they need special 'hate crime' laws to protect them from non-homosexual 'gay bashers.'

Who's right? Does the excess of violence naturally well up *from within* a pathological gay subculture or do outsiders direct it *toward* homosexuals? Keeping in mind that only about 2%-3% of adults are homosexual or bisexual,¹ let's examine varieties of violence.

Murder and Mass Murder

Although the total number of victims dispatched by a given killer is often in doubt, (e.g., homosexual Henry Lucas claimed that he killed 350), it appears that the modern world record for serial killing is held by a Russian homosexual, Andrei Chikatilo, who was convicted in 1992 of raping, murdering and eating parts of at least 21 boys, 17 women and 14 girls. The pathology of eating one's sexual victims also characterized Milwaukee's Jeffrey Dahmer in 1992. He not only killed 17 young men and boys, but cooked and ate their body parts.

The top six U.S. male serial killers were all gay:

- Donald Harvey claimed 37 victims in Kentucky;
- John Wayne Gacy raped and killed 33 boys in Chicago, burying them under his house and in his yard;
- Patrick Kearney accounted for 32, cutting his victims into small pieces after sex and leaving them in trash bags along the Los Angeles freeways;

- Bruce Davis molested and killed 27 young men and boys in Illinois;

- A gay sex-murder-torture ring (Corll-Henley-Brooks) sent 27 Texas men and boys to their grave; and

- Juan Corona was convicted of murdering 25 migrant workers (he "made love" with their corpses).

Lesbian Aileen Wuornos laid claim in 1992 to "worst female killer" with at least 7 middle-aged male victims. She singlehandedly topped the lesbian nurse team of Catherine Wood and Gwen Graham, who had killed 6 convalescent patients in Grand Rapids, Michigan.

The association between serial murder and homosexuality isn't recent. Two gays compete for the spot of "world's worst murderer." During the Nazi rein of terror, Auschwitz executioner Ludwig Tiene strangled, crushed, and gnawed boys and young men to death while he raped them. Though his grand total is uncertain, he often murdered as many as 100 a day. Gilles de Rais (Bluebeard) brutally destroyed the lives of 800 boys. Each lad was lured to his home, bathed and fed. Just as the poor boy thought "this is my lucky day," he was raped, then killed by being ripped or cut apart and either burned or eaten.

A study of 518 sexually-tinged mass murders in the U.S. from 1966 to 1983 determined that 350 (68%) of the victims were killed by those who practiced homosexuality and that 19 (44%) of the 43 murderers were bisexuals or homosexuals.²

Though probably less than a majority of mass murderers are homosexual, given that no more than 3% of the populace is gay, homosexual murderers show up much more frequently than one would expect.

Along with serial murder, there appears to be a connection between homosexuality and murder. Evidence from before the gay rights movement is limited. Of 444 homicides in one jurisdiction from 1955-1973, investigators noted 5 clear "sexual motivation" murders. Three of the 5 involved homosexuality and 2 involved heterosexuality.³

Probing more deeply into the connection between murder and homosexuality, Jim Warren, who worked as a counselor at the Washington State Corrections Center, did the intake interview for almost all the younger murderers (i.e., under age 36) in the state of Washington from 1971-82 (during the growth of the gay rights movement). He was "probably the only one who examined the entirety of each of their case files." Warren testified⁴ that he was struck with how frequently homosexuality turned up in the cases.

Starting with a trickle of 2 or 3 murders/year in 1972 until dozens/year by the 1980s, he noted a recurrent pattern: Although the motive listed in the report was often robbery or theft, "about 50% of the time" it was also associated with homosexuality. Typically, a homosexual would meet someone at a bar or park and invite him to his home. Before the morning, an argument would ensue and he or his visitor would be dead.

Violent Sexual Practices

A substantial minority of homosexuals (between 22%⁵ to 37%^{6,7}) indulge in painful or violent sex (e.g., bondage and discipline [B/D], where the partner is physically restrained and mildly tortured, or sadomasochism [S/M], where partners are tortured or hurt during sex). Even in the 1940s, psychiatrist David Abrahamson⁸ noted, "It is well known that homosexual inclinations may be accompanied by sadistic or masochistic tendencies.... These perversions play a great part in many sexual offenses and in many cases of murder." In a national survey of random samples of homosexuals and heterosexuals,⁷ 32% of those males who called themselves homosexual or bisexual versus 5% of heterosexual males reported having engaged in sadomasochism; 17% of lesbians versus 4% of heterosexual women also admitted to S/M. Likewise, gays and lesbians were about four times more apt to engage in bondage than were heterosexuals.

• Homosexual books and magazines celebrate the "fun" of violent sex. For instance, a Denver gay columnist (the "leathersex fairy"), told his readers how to strangle and flog one's partner during sex. He also extolled the practice of "hanging from a tree by meat hooks through the pectoral muscles" and described "guys who like to have burning cigars, cigarettes, or matches held near or pressed into their skin."⁹ Likewise, national and international gay tour books matter-of-factly list places where sadomasochistic sex can be obtained.¹⁰

• In 1993, London gays raised £100,000 to appeal a conviction in which the judge ruled that "sex is no excuse for violence.... Pleasure derived from the infliction of pain is an evil thing." The crime? "Nailing a foreskin and scrotum to a board" and "pouring hot wax in a urethra."¹¹

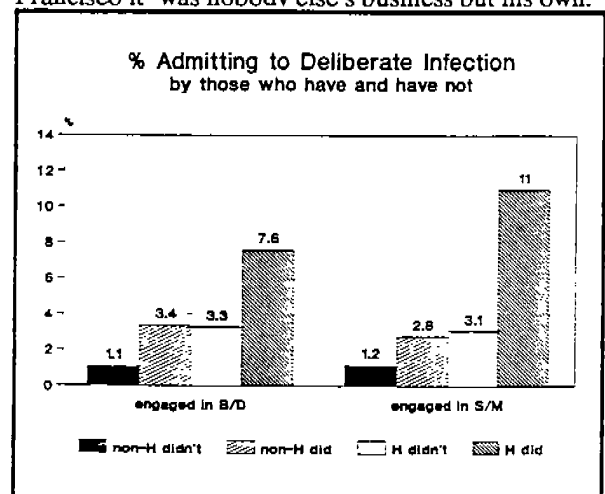
• The 1980 CBS-TV documentary, *Gay Power, Gay Politics* reported that about 10% of the accidental deaths among young men in San Francisco resulted from sadomasochistic sex gone awry.

Deliberately Infecting Others During Sex

Gay activists often argue that what consenting adults do in private is nobody else's business. However, gays have sex with so many different partners^{5,6,7} that they increase their risk of getting or transmitting sexually transmitted diseases (STDs). Indeed, homosexuals are considerably more apt to get STDs than are non-homosexuals.¹²

Most who get an STD decide that they will do all in their power not to infect others. But others — an important minority — decide that they will make their partners suffer as much as they have. As Mirko Grmek¹³ noted "every historian of disease knows that such an attitude of vengeance, or at least of recklessness, had contributed in other times to the spread of tuberculosis and syphilis." Limited evidence suggests that, compared to heterosexuals, homosexuals are more apt to harm their sexual partners deliberately. The only comparative study^{5,9} on this issue found that about 1% of male and female heterosexuals compared to 7% of gays and 3% of lesbians admitted to deliberately passing on STDs that they had acquired.

When the disease is AIDS, the personal and social costs of deliberate infection are exceptionally high. Several examples of homosexuals who were deliberate spreaders of AIDS have been documented,¹³ but the most notorious is that of "patient zero," the Canadian flight attendant who, until his death at age 32, shared his body and infection with 250 men every year. From the late 1970s through the early 1980s he was personally responsible for at least 40 of the first 248 American cases of AIDS and told public health officials in San Francisco it "was nobody else's business but his own."



There also appears to be a connection between the practice of violent sex and one's willingness to deliberately infect someone else. Dividing our random national sample^{7,12} into those with no interest in homosexual activity (non-H) and those with at least some homosexual interest (H) — and combining males and females — we found that 4.0% of the non-Hs vs 21.8% of those with at least some homosexual interest said that they had participated in sadomasochism (S/M); 7.8% of the non-Hs admitted to bondage (B/D) vs 27.5% of the Hs. Further, those who had engaged in violent sex of either type were twice as likely to have deliberately attempted to infect a partner than those without such violent experience (see Figure).

In 1992 three London STD clinics reported that almost half of their homosexual patients who *knew* they were infected with HIV had *then gotten* rectal gonorrhoea.¹⁴ These gays were not permitting their deadly infection to spoil their sexual fun. By 1993 over 100,000 U.S. gays had died of AIDS and tens of thousands had died of hepatitis B. Most of these had been infected, many deliberately or carelessly, by other homosexuals.

Homosexual Rape

The National Crime Survey¹⁵ reported that about 1 of every 10,000 males over the age of 11 is raped each year (vs 13 of every 10,000 females) — that is, about 7% of rapes are homosexual. In two jurisdictions, Columbia, SC¹⁶ and Memphis, TN,¹⁷ males accounted for 5.7% of the victims of rape reported to authorities — in only one instance was the assailant a woman.

Along with the rise of the gay rights movement, homosexual rape of men appears to have increased in the past few decades.^{5, 15, 16} Homosexual rape is twice as common in urban areas where gays congregate than in suburban or rural areas.¹⁵ It may also be more common where the gay subculture is accepted: a 1970 study in San Francisco found that 9% of male heterosexuals and 24% of gays; 2% of female heterosexuals and 11% of lesbians reported having been homosexually raped.¹⁸ In our 1983 national urban survey (which did not include San Francisco), 1.3% of heterosexual men vs 12.5% of gay men and 0.6% of heterosexual women vs 8.6% of lesbians reported having been homosexually raped.^{5,10}

More alarmingly, between 15% to 40% of statutory rape (child molestation) involves homosexuality.¹⁹ In one study, 25% of white gays¹⁸ admitted to sex with boys 16 or younger when they were aged 21 or older.

Rape at any age is violent and emotionally devastating. But it can also edge victims toward homosexuality. In our national study, almost half the lesbians said they had been *heterosexually* raped — perhaps gravitating to homosexuality because of the experience. Males often react differently. Thus the Masters and Johnson Institute reported that a "25-year-old man had had his first sexual experience when he was 13 years old. It was arranged by his lesbian mother with an older gay man. After that episode, his imagery and interpersonal sexual experience were exclusively homosexual."²⁰ Likewise, "Mr. K, age 22, felt that his change in sexual preference was related to his having been raped by two men.... After the assault he experienced sexual identity confusion and began engaging voluntarily in homosexual activity. When he was seen for evaluation he labeled himself as openly homosexual."²¹

Impact of Violence On The Homosexual Lifespan

A study of 6,714 obituaries²² in gay newspapers across the U.S. revealed that 3% of 6,574 gays and 20% of 140 lesbians had died violently:

- 1.4% of gays and 7% of lesbians were murdered (rates over a hundred times those of non-gays);
- 0.6% of gays and 5.7% of lesbians committed suicide (rates dozens of times those of non-gays); and
- 0.6% of gays and 4.3% of lesbians died in motor vehicle accidents (over 17 times the rate of non-gays)

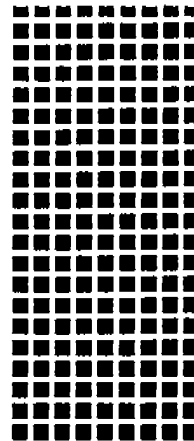
These events, coupled with various STDs (especially AIDS) gotten from other gays, resulted in a median age of death of 40 among gays and a median age of death of 45 among lesbians. In the same study, comparison samples of married men had a median age of death of 75 and married women a median age of death of 79. For divorced or single persons the median age of death was 57 for men and 71 for women.

Conclusion

The 'hate crimes' gays complain about are infrequent and seldom involve more than name-calling or snide remarks. The FBI reported 431 hate crimes against homosexuals for the U.S. in all of 1991. Only one was "confirmed" for Washington, D.C. — yet D.C. gay activists claimed 397 incidents! When pressed, they admitted that at least 366 of these "crimes" consisted of "verbal harassment."²³

In line with traditional psychiatric opinion, violence goes hand-in-hand with the 'gay' lifestyle. Almost all the exposure by homosexuals to violence and disease

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Medical Consequences

of



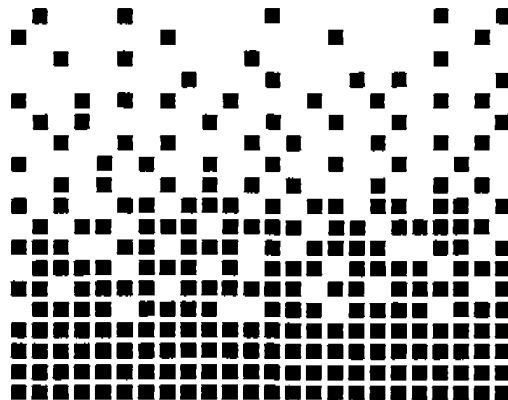
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What Homosexuals Do



Throughout history, all civilizations and all major religions have condemned homosexuality.¹ In the American colonies, homosexual acts were a capital offense. Thomas Jefferson said that homosexuality "should be punished, if a man, by castration, if a woman, by cutting through the cartilage of her nose a hole of one-half inch in diameter at least."² Until 1961 homosexual acts were illegal throughout America.

Gays claim that the "prevailing attitude toward homosexuals in the U.S. and many other countries is revulsion and hostility.... for acts and desires not harmful to anyone."³ The American Psychological Association and the American Public Health Association assured the U.S. Supreme Court in 1986 that "no significant data show that engaging in... oral and anal sex, results in mental or physical dysfunction."⁴

Is the historic stance against homosexuality merely one of prejudice? Is homosexual behavior really as harmless as gays and these health associations assert?

What Homosexuals Do

The major surveys on homosexual behavior are summarized below. Two things stand out: 1) homosexuals behave similarly world-over, and 2) as Harvard Medical Professor, Dr. William Haseltine,³³ noted in 1993, the "changes in sexual behavior that have been reported to have occurred in some groups have proved, for the most part, to be transient. For example, bath houses and sex clubs in many cities have either reopened or were never closed."

Homosexual Activities (in %)

	US ¹⁶	US ¹³	US ⁶ / Canada ²⁵	US ¹⁸	Canada ³⁴	US	Lon- don ²⁷	Sydney ²⁶
	1940	1977	'83/'84	1983	1990	1983	1985	1 9 9 1
	ever	ever	ever	in yr	in 3mo	in mo	in mo	last 6 mo
oral/penile	83	99	100/99	99	76	95	67	
anal/penile	68	91	93/98	95	62	69	100	
oral/anal	59	83	92/92	63	34		89	55/65
urine sex	10	23	29/					
fisting/toys		22	41/47	34			63	
eating feces			4	8				
enemas			11	11				
torture sex	22	37	37					
public/orgy sex	61	76	88					
sex with minors	37	23	24/					

● **Oral sex:** Homosexuals fellate almost all of their sexual contacts (and ingest semen from about half of these⁵). Semen contains many of the germs carried in

the blood. Because of this, gays who practice oral sex verge on consuming raw human blood, with all its medical risks. Since the penis often has tiny lesions (and often will have been in unsanitary places such as a rectum), individuals so involved may become infected with hepatitis A or gonorrhea (and even HIV and hepatitis B). Since many contacts occur between strangers (70% of gays estimated that they had had sex only once with over half of their partners^{17,27}), and gays average somewhere between 10⁶ and 110⁵ different partners/year, the potential for infection is considerable.

● **Rectal sex:** Surveys indicate that about 90% of gays have engaged in rectal intercourse, and about two-thirds do it regularly. In a 6-month long study of daily sexual diaries,⁵ gays averaged 110 sex partners and 68 rectal encounters a year.

Rectal sex is dangerous. During rectal intercourse the rectum becomes a mixing bowl for: 1) saliva and its germs and/or an artificial lubricant, 2) the recipient's own feces, 3) whatever germs, infections or substances the penis has on it, and 4) the seminal fluid of the inserter. Since sperm readily penetrate the rectal wall (which is only one cell thick) causing immunologic damage, and tearing or bruising of the anal wall is very common during anal/penile sex, these substances gain almost direct access to the blood stream. Unlike heterosexual intercourse (in which sperm cannot penetrate the multilayered vagina and no feces are present),⁷ rectal intercourse is probably the most sexually efficient way to spread hepatitis B, HIV, syphilis and a host of other blood-borne diseases.

Tearing or ripping of the anal wall is especially likely with "fisting," where the hand and arm is inserted into the rectum. It is also common when 'toys' are employed (homosexual lingo for objects which are inserted into the rectum -- bottles, carrots, even gerbils⁸). The risk of contamination and/or having to wear a colostomy bag from such "sport" is very real. Fisting was apparently so rare in Kinsey's time that he didn't think to ask about it. By 1977, well over a third of gays admitted to doing it. The rectum was not designed to accommodate the fist, and those who do so can find themselves consigned to diapers for life.

● **Fecal sex:** About 80% of gays (see Table) admit to licking and/or inserting their tongues into the anus of partners and thus ingesting medically significant amounts of feces. Those who eat or wallow in it are probably at even greater risk. In the diary study,⁵ 70% of the gays had engaged in this activity -- half regular-

ly — over 6 months. Result? — the "annual incidence of hepatitis A in... homosexual men was 22 per cent, whereas no heterosexual men acquired hepatitis A." In 1992,²⁶ it was noted that the proportion of London gays engaging in oral/anal sex had not declined since 1984.

While the body has defenses against fecal germs, exposure to the fecal discharge of dozens of strangers each year is extremely unhealthy. Ingestion of human waste is the major route of contracting hepatitis A and the enteric parasites collectively known as the **Gay Bowel Syndrome**. Consumption of feces has also been implicated in the transmission of typhoid fever,⁹ herpes, and cancer.²⁷ About 10% of gays have eaten or played with [e.g., enemas, wallowing in] feces. The San Francisco Department of Public Health saw "75,000 patients per year, of whom 70 to 80 per cent are homosexual men.... An average of 10 per cent of all patients and asymptomatic contacts reported... because of positive fecal samples or cultures for ameba, giardia, and shigella infections were employed as food handlers in public establishments; almost 5 per cent of those with hepatitis A were similarly employed."¹⁰

In 1976, a rare *airborne* scarlet fever broke out among gays and just missed sweeping through San Francisco.¹⁰ The U.S. Centers for Disease Control reported that 29% of the hepatitis A cases in Denver, 66% in New York, 50% in San Francisco, 56% in Toronto, 42% in Montreal and 26% in Melbourne in the first six months of 1991 were among gays.¹¹ A 1982 study "suggested that some transmission from the homosexual group to the general population may have occurred."¹²

● **Urine sex:** About 10% of Kinsey's gays reported having engaged in "golden showers" [drinking or being splashed with urine]. In the largest survey of gays ever conducted,¹³ 23% admitted to urine-sex. In the largest random survey of gays,⁶ 29% reported urine-sex. In a San Francisco study of 655 gays,¹⁴ only 24% claimed to have been monogamous in the past year. Of these monogamous gays, 5% drank urine, 7% practiced "fisting," 33% ingested feces via anal/oral contact, 53% swallowed semen, and 59% received semen in their rectum during the previous month.

● **Other Gay Sex Practices**

Sadomasochism: as the Table indicates, a large minority of gays engage in torture for sexual fun. **Sex with minors:** 25% of white gays¹⁷ admitted to sex with boys 16 or younger as adults. In a 9-state study,³⁰ 33% of the 181 male, and 22% of the 18 female teachers caught molesting students did so homosexually

(though less than 3% of men and 2% of women engage in homosexuality³¹). Depending on the study, the percent of gays reporting sex in public restrooms ranged from 14%¹⁶ to 41%¹³ to 66%⁹, 9%¹⁰, 60%¹³ and 67%⁶ reported sex in gay baths; 64%¹⁶ and 90%¹⁸ said that they used illegal drugs.

Fear of AIDS may have reduced the volume of gay sex partners, but the numbers are prodigious by any standard. Morin¹⁵ reported that 824 gays had lowered their sex-rate from 70 different partners/yr in 1982 to 50/yr by 1984. McKusick¹⁴ reported declines from 76/yr to 47/yr in 1985. In Spain³² the average was 42/yr in 1989.

Medical Consequences Of Homosexual Sex

Death and disease accompany promiscuous and unsanitary sexual activity. 70%²⁵ to 78%^{6,13} of gays reported having had a sexually transmitted disease. The proportion with intestinal parasites (worms, flukes, ameba) ranged from 25%¹⁸ to 39%¹⁹ to 59%.²⁰ As of 1992, 83% of U.S. AIDS in whites had occurred in gays.²¹ The Seattle sexual diary study⁵ reported that gays had, on a yearly average:

- 1) fellated 108 men and swallowed semen from 48;
- 2) exchanged saliva with 96;
- 3) experienced 68 penile penetrations of the anus; and
- 4) ingested fecal material from 19.

No wonder 10% came down with hepatitis B and 7% contracted hepatitis A during the 6 month study.

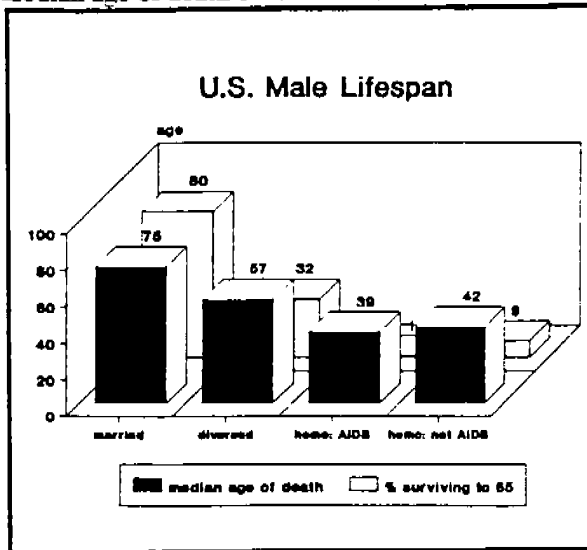
Effects on the Lifespan

Smokers and drug addicts don't live as long as non-smokers or non-addicts, so we consider smoking and narcotics abuse harmful. The typical lifespan of homosexuals suggests that their activities are more destructive than smoking and as dangerous as drugs.

6,714 obituaries from 16 U.S. homosexual journals over the past 12 years were compared to a large sample of obituaries from regular newspapers.²³ The obituaries from the regular newspapers were similar to U.S. averages for longevity: the median age of death of married men was 75 and 80% of them died old (age 65 or older). For unmarried or divorced men the median age of death was 57 and 32% of them died old. Married women averaged age 79 at death; 85% died old. Unmarried and divorced women averaged age 71 and 60% of them died old.

The median age of death for homosexuals, however, was virtually the same nationwide — and, overall, less than 2% survived to old age. If AIDS was the cause of death, the median age was 39. For the 829 gays who

died of something other than AIDS, the median age of death was 42 and 9% died old. The 140 lesbians had a median age of death of 45 and 23% died old.



2.9% of gays died violently. They were 116 times more apt to be murdered; 24 times more apt to commit suicide; and had a traffic-accident death-rate 18 times the rate of comparably aged white males. Heart attacks, cancer and liver failure were exceptionally common. Twenty percent of lesbians died of murder, suicide, or accident — a rate 512 times higher than that of white females aged 25-44. The age distributions of samples of homosexuals in the scientific literature from 1858 to 1992 suggests a similarly shortened lifespan

The Gay Legacy

Homosexuals rode into the dawn of sexual freedom and returned with a plague that gives every indication of destroying most of them. Those who treat AIDS patients are at great risk, not only from HIV infection, which, as of 1992 involved over 100 health care workers,²¹ but also from TB and new strains of other diseases.²⁴ Those who are housed with AIDS patients are also at risk.²⁴ Dr. Max Essex, chair of the Harvard AIDS Institute, warned congress in 1992 that "AIDS has already lead to other kinds of dangerous epidemics.... If AIDS is not eliminated, other new lethal microbes will emerge, and neither safe sex nor drug free practices will prevent them."²⁸ At least 8, and perhaps as many as 30²⁹ patients had been infected with HIV by health care workers as of 1992.

The Biological Swapmeet

The typical sexual practices of homosexuals are a medical horror story — imagine exchanging saliva, feces, semen and/or blood with dozens of different men each year. Imagine drinking urine, ingesting feces and experiencing rectal trauma on a regular basis. Often these encounters occur while the participants are drunk, high, and/or in an orgy setting. Further, many of them occur in extremely unsanitary places (bathrooms, dirty peep shows), or, because homosexuals travel so frequently, in other parts of the world.

Every year, a quarter or more of homosexuals visit another country.²⁰ Fresh American germs get taken to Europe, Africa and Asia. And fresh pathogens from these continents come here. Foreign homosexuals regularly visit the U.S. and participate in this biological swapmeet.

The Pattern of Infection

Unfortunately the danger of these exchanges does not merely affect homosexuals. Travelers carried so many tropical diseases to New York City that it had to institute a tropical disease center, and gays carried HIV from New York City to the rest of the world.²⁷ Most of the 6,349 Americans who got AIDS from contaminated blood as of 1992 received it from homosexuals and most of the women in California who got AIDS through *heterosexual* activity got it from men who engaged in homosexual behavior.²² The rare form of airborne scarlet fever that stalked San Francisco in 1976 also started among homosexuals.¹⁰

There is a pattern here that we ignore at our peril. With the rise of these new contagious diseases, homosexuality not only raises our medical costs, it also increases the hazards of medical care, receiving blood, and eating out.

Genuine Compassion

Society is legitimately concerned with health risks — they impact our taxes and everyone's chances of illness and injury. Because we care about them, smokers are discouraged from smoking by higher insurance premiums, taxes on cigarettes and bans against smoking in public. These social pressures cause many to quit. They likewise encourage non-smokers to *stay* non-smokers.

Homosexuals are sexually troubled people engaging in dangerous activities. Because we care about them and those tempted to join them, it is important that we neither encourage nor legitimize such a destructive lifestyle.

[478 US 186]

MICHAEL J. BOWERS, Attorney General of Georgia, Petitioner

v

MICHAEL HARDWICK, and JOHN AND MARY DOE

478 US 186, 92 L Ed 2d 140, 106 S Ct 2841, reh den (US) 92 L Ed 2d 779,
107 S Ct 29

[No. 85-140]

Argued March 31, 1986. Decided June 30, 1986.

Decision: Due process clause of Fourteenth Amendment held not to confer fundamental right on homosexuals to engage in consensual sodomy, even in privacy of home.

SUMMARY

A Georgia statute made it a criminal offense, punishable by up to 20 years' imprisonment, to commit sodomy, which it defined as performing or submitting to any sexual act involving the sex organs of one person and the mouth or anus of another. After a homosexual was charged with violating the statute by committing sodomy with a consenting male adult in the bedroom of his home, and after the district attorney had decided not to prosecute unless further evidence developed, the homosexual brought suit in a Federal District Court challenging the constitutionality of the statute insofar as it criminalized consensual sodomy. The District Court granted a motion by the defendants, the state attorney general and others, to dismiss the action for failure to state a claim. The United States Court of Appeals for the Eleventh Circuit, however, reversed and remanded for trial, holding (1) that the statute violated the homosexual's fundamental right to privacy, protected by the Ninth Amendment and by the due process clause of the Fourteenth Amendment; and (2) that the state, in order to prevail at trial, had to prove that it had a compelling interest in regulating such behavior and that the statute was the most narrowly drawn means of achieving that end (760 F2d 1202).

On certiorari, the United States Supreme Court reversed the judgment of the Court of Appeals. In an opinion by WHITE, J., joined by BURGER, Ch. J., and POWELL, REHNQUIST, and O'CONNOR, JJ., it was held that the due process clause of the Fourteenth Amendment does not confer any fundamental right on homosexuals to engage in acts of consensual sodomy.

Briefs of Counsel, p 839, infra.

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Powell, J., filed concurring opinions. and Stevens, JJ., joined. Stevens, J., Blackmun, J., filed a dissenting opinion, in which Brennan, Marshall, Brennan and Marshall, JJ., joined.

APPEARANCES OF COUNSEL

Michael E. Hobbs argued the cause for petitioner.
Laurence Tribe argued the cause for respondents.
Briefs of Counsel, p 839, infra.

OPINION OF THE COURT

[478 US 187]

Justice White delivered the opinion of the Court.

In August 1982, respondent Hardwick (hereafter respondent) was charged with violating the Georgia statute criminalizing

[478 US 188]

sodomy¹ by committing that act with another adult male in the bedroom of respondent's home. After a preliminary hearing, the District Attorney decided not to present the matter to the grand jury unless further evidence developed.

Respondent then brought suit in the Federal District Court, challenging the constitutionality of the statute insofar as it criminalized consensual sodomy.² He asserted that he was a practicing homosexual, that the Georgia sodomy statute, as administered by the defendants, placed him in imminent danger of arrest, and that the statute for several rea-

sons violates the Federal Constitution. The District Court granted the defendants' motion to dismiss for failure to state a claim, relying on Doe v Commonwealth's Attorney for the City of Richmond, 403 F Supp 1199 (ED Va 1975), which this Court summarily affirmed, 425 US 901, 47 L Ed 2d 751, 96 S Ct 1489 (1976).

[478 US 189]

A divided panel of the Court of Appeals for the Eleventh Circuit reversed. 760 F2d 1202 (1985). The court first held that, because Doe was distinguishable and in any event had been undermined by later decisions, our summary affirmance in that case did not require affirmance of the District Court. Relying on our decisions in *Griswold v Connecticut*, 381 US 479, 14 L Ed 2d 510, 85 S Ct 1678 (1965), *Eisenstadt v Baird*, 405 US 438, 31 L Ed 2d 349, 92 S Ct 1029 (1972), *Stanley v Georgia*, 394 US 557, 22 L Ed 2d 542, 89

1. Georgia Code Ann § 16-6-2 (1984) provides, in pertinent part, as follows:

"(a) A person commits the offense of sodomy when he performs or submits to any sexual act involving the sex organs of one person and the mouth or anus of another. . . .

"(b) A person convicted of the offense of sodomy shall be punished by imprisonment for not less than one nor more than 20 years. . . ."

2. John and Mary Doe were also plaintiffs in the action. They alleged that they wished to engage in sexual activity proscribed by § 16-6-2 in the privacy of their home, App 3, and that they had been "chilled and deterred" from engaging in such activity by both the existence of the statute and Hardwick's ar-

rest. *Id.*, at 5. The District Court held, however, that because they had neither sustained, nor were in immediate danger of sustaining, any direct injury from the enforcement of the statute, they did not have proper standing to maintain the action. *Id.*, at 18. The Court of Appeals affirmed the District Court's judgment dismissing the Does' claim for lack of standing, 760 F2d 1202, 1206-1207 (CA 11 1985), and the Does do not challenge that holding in this Court.

The only claim properly before the Court, therefore, is Hardwick's challenge to the Georgia statute as applied to consensual homosexual sodomy. We express no opinion on the constitutionality of the Georgia statute as applied to other acts of sodomy.

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S Ct 1243 (1969), and *Roe v Wade*, 410 US 113, 35 L Ed 2d 147, 93 S Ct 705 (1973), the court went on to hold that the Georgia statute violated respondent's fundamental rights because his homosexual activity is a private and intimate association that is beyond the reach of state regulation by reason of the Ninth Amendment and the Due Process Clause of the Fourteenth Amendment. The case was remanded for trial, at which, to prevail, the State would have to prove that the statute is supported by a compelling interest and is the most narrowly drawn means of achieving that end.

[1a, 2a] Because other Courts of Appeals have arrived at judgments contrary to that of the Eleventh Circuit in this case,³ we granted the Attorney General's petition for certiorari questioning the holding that the sodomy statute violates the fundamental rights of homosexuals. We agree with petitioner that the Court of Appeals erred, and hence reverse its judgment.⁴

[478 US 190]

This case does not require a judgment on whether laws against sodomy between consenting adults in general, or between homosexuals in particular, are wise or desirable. It raises no question about the right or propriety of state legislative decisions to repeal their laws that criminalize homosexual sodomy, or of

3. See *Baker v Wade*, 769 F2d 289, rehearing denied, 774 F2d 1285 (CA5 1985) (en banc); *Dronenburg v Zech*, 239 US App DC 229, 741 F2d 1388, rehearing denied, 241 US App DC 262, 746 F2d 1579 (1984).

4. [2b] Petitioner also submits that the Court of Appeals erred in holding that the District Court was not obligated to follow our summary affirmance in *Doe*. We need not resolve this dispute, for we prefer to give

state-court decisions invalidating those laws on state constitutional grounds. The issue presented is whether the Federal Constitution confers a fundamental right upon homosexuals to engage in sodomy and hence invalidates the laws of the many States that still make such conduct illegal and have done so for a very long time. The case also calls for some judgment about the limits of the Court's role in carrying out its constitutional mandate.

We first register our disagreement with the Court of Appeals and with respondent that the Court's prior cases have construed the Constitution to confer a right of privacy that extends to homosexual sodomy and for all intents and purposes have decided this case. The reach of this line of cases was sketched in *Carey v Population Services International*, 431 US 678, 685, 52 L Ed 2d 675, 97 S Ct 2010 (1977). *Pierce v Society of Sisters*, 268 US 510, 69 L Ed 1070, 45 S Ct 571, 39 ALR 468 (1925), and *Meyer v Nebraska*, 262 US 390, 67 L Ed 1042, 43 S Ct 625, 29 ALR 1446 (1923), were described as dealing with child rearing and education; *Prince v Massachusetts*, 321 US 158, 88 L Ed 645, 64 S Ct 438 (1944), with family relationships; *Skinner v Oklahoma ex rel. Williamson*, 316 US 535, 86 L Ed 1655, 62 S Ct 1110 (1942), with procreation; *Loving v Virginia*, 388 US 1, 18 L Ed 2d 1010, 87 S Ct 1817 (1967), with marriage;

plenary consideration to the merits of this case rather than rely on our earlier action in *Doe*. See *Usery v Turner Elkhorn Mining Co.* 428 US 1, 14, 49 L Ed 2d 752, 96 S Ct 2882 (1976); *Massachusetts Board of Retirement v Murgia*, 427 US 307, 309, n 1, 49 L Ed 2d 520, 96 S Ct 2562 (1976); *Edelman v Jordan*, 415 US 651, 671, 39 L Ed 2d 662, 94 S Ct 1347 (1974). Cf. *Hicks v Miranda*, 422 US 332, 344, 45 L Ed 2d 223, 95 S Ct 2281 (1975).

Griswold v Connecticut, supra, and Eisenstadt v Baird, supra, with contraception; and Roe v Wade, 410 US 113, 35 L Ed 2d 147, 93 S Ct 705 (1973), with abortion. The latter three cases were interpreted as construing the Due Process Clause of the Fourteenth Amendment to confer a fundamental individual right to decide whether or not to beget or bear a child. Carey v Population Services International, supra, at 688-689, 52 L Ed 2d 675, 97 S Ct 2010.

Accepting the decisions in these cases and the above description of them, we think it evident that none of the rights announced in those cases bears any resemblance to the

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claimed constitutional right of homosexuals to engage in acts of sodomy that is asserted in this case. No connection between family, marriage, or procreation on the one hand and homosexual activity on the other has been demonstrated, either by the Court of Appeals or by respondent. Moreover, any claim that these cases nevertheless stand for the proposition that any kind of private sexual conduct between consenting adults is constitutionally insulated from state proscription is unsupportable. Indeed, the Court's opinion in Carey twice asserted that the privacy right, which the Griswold line of cases found to be one of the protections provided by the Due Process Clause, did not reach so far. 431 US, at 688, n 5, 694, n 17, 52 L Ed 2d 675, 97 S Ct 2010.

Precedent aside, however, respondent would have us announce, as the Court of Appeals did, a fundamental right to engage in homosexual sodomy. This we are quite unwilling to do. It is true that despite the language of the Due Process Clauses of the Fifth and Fourteenth Amend-

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ments, which appears to focus only on the processes by which life, liberty, or property is taken, the cases are legion in which those Clauses have been interpreted to have substantive content, subsuming rights that to a great extent are immune from federal or state regulation or proscription. Among such cases are those recognizing rights that have little or no textual support in the constitutional language. Meyer, Prince, and Pierce fall in this category, as do the privacy cases from Griswold to Carey.

Striving to assure itself and the public that announcing rights not readily identifiable in the Constitution's text involves much more than the imposition of the Justices' own choice of values on the States and the Federal Government, the Court has sought to identify the nature of the rights qualifying for heightened judicial protection. In Palko v Connecticut, 302 US 319, 325, 326, 82 L Ed 288, 58 S Ct 149 (1937), it was said that this category includes those fundamental liberties that are "implicit in the concept of ordered liberty," such that "neither

[478 US 192]

liberty nor justice would exist if [they] were sacrificed." A different description of fundamental liberties appeared in Moore v East Cleveland, 431 US 494, 503, 52 L Ed 2d 531, 97 S Ct 1932 (1977) (opinion of Powell, J.), where they are characterized as those liberties that are "deeply rooted in this Nation's history and tradition." Id., at 503, 52 L Ed 2d 531, 97 S Ct 1932 (Powell, J.). See also Griswold v Connecticut, 381 US, at 506, 14 L Ed 2d 510, 85 S Ct 1678.

It is obvious to us that neither of these formulations would extend a fundamental right to homosexuals to

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engage in acts of consensual sodomy. Proscriptions against that conduct have ancient roots. See generally Survey on the Constitutional Right to Privacy in the Context of Homosexual Activity, 40 U of Miami L Rev 521, 525 (1986). Sodomy was a

criminal offense at common law and was forbidden by the laws of the original 13 States when they ratified the Bill of Rights.⁵ In 1868, when the Fourteenth Amendment was ratified,
[478 US 193]

all but 5 of the 37 States in the Union had criminal sodomy laws.⁶ In

5. Criminal sodomy laws in effect in 1791:
Connecticut: 1 Public Statute Laws of the State of Connecticut, 1808, Title LXVI, ch 1, § 2 (rev 1672).

Delaware: 1 Laws of the State of Delaware, 1797, ch 22, § 5 (passed 1719).

Georgia had no criminal sodomy statute until 1816, but sodomy was a crime at common law, and the General Assembly adopted the common law of England as the law of Georgia in 1784. The First Laws of the State of Georgia, pt 1, p 290 (1981).

Maryland had no criminal sodomy statute in 1791. Maryland's Declaration of Rights, passed in 1776, however, stated that "the inhabitants of Maryland are entitled to the common law of England," and sodomy was a crime at common law. 4 W. Swindler, Sources and Documents of United States Constitutions 372 (1975).

Massachusetts: Acts and Laws passed by the General Court of Massachusetts, ch 14, Act of Mar. 3, 1785.

New Hampshire passed its first sodomy statute in 1718. Acts and Laws of New Hampshire 1680-1726, p 141 (1978).

Sodomy was a crime at common law in New Jersey at the time of the ratification of the Bill of Rights. The State enacted its first criminal sodomy law five years later. Acts of the Twentieth General Assembly, Mar. 18, 1796, ch DC, § 7.

New York: Laws of New York, ch 21 (passed 1787).

At the time of ratification of the Bill of Rights, North Carolina had adopted the English statute of Henry VIII outlawing sodomy. See Collection of the Statutes of the Parliament of England in Force in the State of North-Carolina, ch 17, p 314 (Martin ed 1792)

Pennsylvania: Laws of the Fourteenth General Assembly of the Commonwealth of Pennsylvania, ch CLIV, § 2 (passed 1790).

Rhode Island passed its first sodomy law in 1662. The Earliest Acts and Laws of the Colony of Rhode Island and Providence Plantations 1647-1719 142 (1977).

South Carolina: Public Laws of the State of South Carolina, p 49 (1790).

At the time of the ratification of the Bill of Rights, Virginia had no specific statute outlawing sodomy, but had adopted the English

common law. 9 Henning's Laws of Virginia, ch 5, § 6, p 127 (1821) (passed 1776).

6. Criminal sodomy statutes in effect in 1868:

Alabama: Ala Rev Code, § 3604 (1867).

Arizona (Terr): Howell Code, ch 10, § 48 (1865).

Arkansas: Ark Stat, ch 51, Art IV, § 5 (1858).

California: 1 Cal Gen Laws, ¶ 1450, § 48 (1865).

Colorado (Terr): Colo Rev Stat, ch 22, §§ 45, 46 (1868).

Connecticut: Conn Gen Stat, Tit 122, ch 7, § 124 (1866).

Delaware: Del Rev Stat, 20, ch 131, § 7 (1893).

Florida: Fla Rev Stat, div 5, § 2614 (passed 1868) (1892).

Georgia: Ga Code §§ 4286, 4287, 4290 (1867).

Kingdom of Hawaii: Haw Penal Code, ch 13, § 11 (1869).

Illinois: Ill Rev Stat, div 5, §§ 49, 50 (1845).

Kansas (Terr): Kan Stat, ch 53, § 7 (1855).

Kentucky: 1 Ky Rev Stat, ch 28, Art IV, § 11 (1860).

Louisiana: La Rev Stat, Crimes and Offences, § 5 (1856).

Maine: Me Rev Stat, Tit XII, ch 160, § 4 (1840).

Maryland: 1 Md Code, Art 30, § 201 (1860).

Massachusetts: Mass Gen Stat, ch 165, § 18 (1860).

Michigan: Mich Rev Stat, Tit 30, ch 158, § 16 (1846).

Minnesota: Minn Stat, ch 96, § 13 (1859).

Mississippi: Miss Rev Code, ch 64, § LII, Art 238 (1857).

Missouri: 1 Mo Rev Stat, ch 50, Art VIII, § 7 (1856).

Montana (Terr): Mont Acts, Resolutions, Memorials, Criminal Practice Acts, ch IV, § 44 (1866).

Nebraska (Terr): Neb Rev Stat, Crim Code, ch 4, § 47 (1866).

Nevada (Terr): Nev Comp Laws, 1861-1900, Crimes and Punishments, § 45

New Hampshire: NH Laws, Act of June 19, 1812, § 5 (1815).

New Jersey: NJ Rev Stat, Tit 8, ch 1, § 9 (1847).

fact, until 1961,⁷ all 50 States outlawed sodomy, and today, 25 States and the District of Columbia
[478 US 194]

continue to provide criminal penalties for sodomy performed in private and between consenting adults. See Survey, U of Miami L Rev, supra, at 524, n 9. Against this background, to claim that a right to engage in such conduct is "deeply rooted in this Nation's history and tradition" or "implicit in the concept of ordered liberty" is, at best, facetious.

[3] Nor are we inclined to take a more expansive view of our authority to discover new fundamental rights imbedded in the Due Process Clause. The Court is most vulnerable and comes nearest to illegitimacy when it deals with judge-made constitutional law having little or no cognizable roots in the language or design of the Constitution. That this is so was painfully demonstrated by the face-off between the Executive and the Court in the 1930's, which resulted in the repudiation
[478 US 195]

of much of the substantive gloss that the Court had placed on the Due Process Clauses of the Fifth and Fourteenth

New York: 3 NY Rev Stat, pt 4, ch 1, Tit 5, § 20 (5th ed 1859).
North Carolina: NC Rev Code, ch 34, § 6 (1855).
Oregon: Laws of Ore, Crimes—Against Morality, etc., ch 7, § 655 (1874).
Pennsylvania: Act of Mar. 31, 1860, § 32, Pub L 392, in 1 Digest of Statute Law of Pa 1700-1903, p 1011 (Purdon 1905).
Rhode Island: RI Gen Stat, ch 232, § 12 (1872).
South Carolina: Act of 1712, in 2 Stat at Large of SC 1682-1716, p 493 (1837).
Tennessee: Tenn Code, ch 8, Art 1, § 4843 (1858).
Texas: Tex Rev Stat, Tit 10, ch 5, Art 342 (1887) (passed 1860).

Amendments. There should be, therefore, great resistance to expand the substantive reach of those Clauses, particularly if it requires redefining the category of rights deemed to be fundamental. Otherwise, the Judiciary necessarily takes to itself further authority to govern the country without express constitutional authority. The claimed right pressed on us today falls far short of overcoming this resistance.

[1b] Respondent, however, asserts that the result should be different where the homosexual conduct occurs in the privacy of the home. He relies on Stanley v Georgia, 394 US 557, 22 L Ed 2d 542, 89 S Ct 1243 (1969), where the Court held that the First Amendment prevents conviction for possessing and reading obscene material in the privacy of one's home: "If the First Amendment means anything, it means that a State has no business telling a man, sitting alone in his house, what books he may read or what films he may watch." Id., at 565, 22 L Ed 2d 542, 89 S Ct 1243.

Stanley did protect conduct that would not have been protected outside the home, and it partially pre-

Vermont: Acts and Laws of the State of Vt (1779).
Virginia: Va Code, ch 149, § 12 (1868).
West Virginia: W Va Code, ch 149, § 12 (1868).
Wisconsin (Terr): Wis Stat, § 14, p 367 (1839).
7. In 1961, Illinois adopted the American Law Institute's Model Penal Code, which decriminalized adult, consensual, private, sexual conduct. Criminal Code of 1961, §§ 11-2, 11-3, 1961 Ill Laws 1985, 2006 (codified as amended at Ill Rev Stat, ch 38, §§ 11-2, 11-3 (1983) (repealed 1984)). See American Law Institute, Model Penal Code § 213.2 (Proposed Official Draft 1962).

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vented the enforcement of state ob- scenity laws; but the decision was firmly grounded in the First Amend- ment. The right pressed upon us here has no similar support in the text of the Constitution, and it does not qualify for recognition under the prevailing principles for construing the Fourteenth Amendment. Its lim- its are also difficult to discern. Plainly enough, otherwise illegal conduct is not always immunized whenever it occurs in the home. Vic- timless crimes, such as the posses- sion and use of illegal drugs, do not escape the law where they are com- mitted at home. Stanley itself recog- nized that its holding offered no pro- tection for the possession in the home of drugs, firearms, or stolen goods. Id., at 568, n 11, 22 L Ed 2d 542, 89 S Ct 1243. And if respon- dent's submission is limited to the voluntary sexual conduct between consenting adults, it would be diffi- cult, except by fiat, to limit the claimed right to homosexual conduct [478 US 196]

while leaving exposed to prosecution adultery, incest, and other sexual

crimes even though they are com- mitted in the home. We are unwill- ing to start down that road.

[4] Even if the conduct at issue here is not a fundamental right, respondent asserts that there must be a rational basis for the law and that there is none in this case other than the presumed belief of a major- ity of the electorate in Georgia that homosexual sodomy is immoral and unacceptable. This is said to be an inadequate rationale to support the law. The law, however, is constantly based on notions of morality, and if all laws representing essentially moral choices are to be invalidated under the Due Process Clause, the courts will be very busy indeed. Even respondent makes no such claim, but insists that majority sen- timents about the morality of homo- sexuality should be declared inade- quate. We do not agree, and are unpersuaded that the sodomy laws of some 25 States should be invali- dated on this basis.⁸

Accordingly, the judgment of the Court of Appeals is reversed.

SEPARATE OPINIONS

Chief Justice Burger, concurring.

I join the Court's opinion, but I write separately to underscore my view that in constitutional terms there is no such thing as a funda- mental right to commit homosexual sodomy.

As the Court notes, ante, at 192, 92 L Ed 2d, at 146-147, the proscrip- tions against sodomy have very "an- cient roots." Decisions of individuals relating to homosexual conduct have been subject to state intervention throughout the history of Western

Civilization. Condemnation of those practices is firmly rooted in Judeo- Christian moral and ethical stan- dards. Homosexual sodomy was a capital crime under Roman law. See Code Theod 9.7.6; Code Just 9.9.31. See also D. Bailey, Homosexuality [478 US 197]

and the Western Christian Tradition 70- 81 (1975). During the English Refor- mation when powers of the ecclesias- tical courts were transferred to the King's Courts, the first English stat- ute criminalizing sodomy was

8. Respondent does not defend the judgment below based on the Ninth Amendment, the

Equal Protection Clause, or the Eighth Amendment.

passed. 25 Hen VIII, ch 6. Blackstone described "the infamous crime against nature" as an offense of "deeper malignity" than rape, a heinous act "the very mention of which is a disgrace to human nature," and "a crime not fit to be named." 4 W. Blackstone, Commentaries *215. The common law of England, including its prohibition of sodomy, became the received law of Georgia and the other Colonies. In 1816 the Georgia Legislature passed the statute at issue here, and that statute has been continuously in force in one form or another since that time. To hold that the act of homosexual sodomy is somehow protected as a fundamental right would be to cast aside millennia of moral teaching.

This is essentially not a question of personal "preferences" but rather of the legislative authority of the State. I find nothing in the Constitution depriving a State of the power to enact the statute challenged here.

Justice Powell, concurring.

I join the opinion of the Court. I agree with the Court that there is no

fundamental right—i.e., no substantive right under the Due Process Clause—such as that claimed by respondent Hardwick, and found to exist by the Court of Appeals. This is not to suggest, however, that respondent may not be protected by the Eighth Amendment of the Constitution. The Georgia statute at issue in this case, Ga Code Ann § 16-6-2 (1984), authorizes a court to imprison a person for up to 20 years for a single private, consensual act of sodomy. In my view, a prison sentence for such conduct—certainly a sentence of long duration—would create a serious Eighth Amendment issue. Under the Georgia statute a single act of sodomy, even in the private setting of a home, is a

[478 US 198]

felony comparable in terms of the possible sentence imposed to serious felonies such as aggravated battery, § 16-5-24, first-degree arson, § 16-7-60, and robbery, § 16-8-40.¹

In this case, however, respondent has not been tried, much less convicted and sentenced.² Moreover, re-

1. Among those States that continue to make sodomy a crime, Georgia authorizes one of the longest possible sentences. See Ala Code § 13A-6-65(a)(3) (1982) (1-year maximum); Ariz Rev Stat Ann §§ 13-1411, 13-1412 (West Supp 1985) (30 days); Ark Stat Ann § 41-1813 (1977) (1-year maximum); DC Code § 22-3502 (1981) (10-year maximum); Fla Stat § 800.02 (1985) (60-day maximum); Ga Code Ann § 16-6-2 (1984) (1 to 20 years); Idaho Code § 18-6605 (1979) (5-year minimum); Kan Stat Ann § 21-3505 (Supp 1985) (6-month maximum); Ky Rev Stat § 510.100 (1985) (90 days to 12 months); La Rev Stat Ann § 14:89 (West 1986) (5-year maximum); Md Ann Code, Art 27, §§ 553-554 (1982) (10-year maximum); Mich Comp Laws § 750.158 (1968) (15-year maximum); Minn Stat § 609.293 (1984) (1-year maximum); Miss Code Ann § 97-29-59 (1973) (10-year maximum); Mo Rev Stat § 566.090 (Supp 1984) (1-year maximum); Mont Code Ann § 45-5-505 (1985) (10-year maximum); Nev Rev Stat § 201.190 (1985) (6-year maxi-

mum); NC Gen Stat § 14-177 (1981) (10-year maximum); Okla Stat, Tit 21, § 886 (1981) (10-year maximum); RI Gen Laws § 11-10-1 (1981) (7 to 20 years); SC Code § 16-15-120 (1985) (5-year maximum); Tenn Code Ann § 39-2-612 (1982) (5 to 15 years); Tex Penal Code Ann § 21.06 (1974) (\$200 maximum fine); Utah Code Ann § 76-5-403 (1978) (6-month maximum); Va Code § 18.2-361 (1982) (5-year maximum).

2. It was conceded at oral argument that, prior to the complaint against respondent Hardwick, there had been no reported decision involving prosecution for private homosexual sodomy under this statute for several decades. See *Thompson v Aldredge*, 187 Ga 467, 200 SE 799 (1939). Moreover, the State has declined to present the criminal charge against Hardwick to a grand jury, and this is a suit for declaratory judgment brought by respondents challenging the validity of the statute. The history of nonenforcement suggests the moribund character today of laws

Cindy
TO: Gene PORTER Vice-Chair Nevada legislature Assembly
FROM: Suzanne HOLTON

I hereby make the following request: Please read into the record of the Judiciary Committee Meeting of June 10th (8am) regarding Sock the following reprint from the Congressional record.

Homosexual activist outlines goals of homosexual movement

By Michael Swift, 'Gay Revolutionary' printed from The Congressional Record (First printed in Gay Community News)

Note: For two months we debated whether or not to print this essay. We conclude it is appropriate because it reveals the motivation of a significant segment of the homosexual movement

We shall sodomize your sons, emblems of your feeble masculinity, of your shallow dreams and vulgar lies. We shall seduce them in your schools, in your dormitories, in your gymnasiums, in your locker rooms, in your sports arenas, in your seminaries, in your youth groups, in your movie theater bathrooms, in your army bunkhouses, in your truck stops, in your all-male clubs, in your houses of Congress, wherever men are with men together. Your sons shall become our minions and do our bidding. They will be recast in our image. They will come to crave and adore us.

Women, you cry for freedom. You say you no longer are satisfied with men; they make you unhappy. We, connoisseurs of the masculine face, the masculine physique, shall take your men from you then. We will amuse them; we will instruct them; we will embrace them when they weep. Women, you say you wish to live with each other instead of with men. Then go and be with each other. We shall give your men pleasures they have never known because we are foremost men too and only one man knows how to truly please another man; only one man can understand with depth and feeling the mind and body of another man.

→ All laws banning homosexual activity will be revoked. Instead, legislation shall be passed which engenders love between men.

All homosexuals must stand together as brothers; we must be united artistically, philosophically, socially, politically and financially. We will triumph only when we present a common face to the vicious heterosexual enemy.

If you dare to cry faggot, fairy, queer, at us, we will stab you in your cowardly hearts and defile your dead, puny bodies.

We shall write poems of the love between men; we shall stage plays in which man openly carresses man; we shall make films about the love between heroic men which will replace the cheap, superficial, sentimental, insipid, juvenile, heterosexual infatuations presently dominating your cinema screens. We shall sculpt statues of beautiful young men, of bold athletes which will be placed in your parks, your squares, your plazas. The museums of the world will be filled only with paintings of graceful, naked lads.

Our writers and artists will make love between men fashionable and *de rigueur*, and we will succeed because we are adept at setting styles. We will eliminate heterosexual fashions through usage of the devices of wit and ridicule, devices which we are skilled in employing.

We will unmask the powerful homosexuals who masquerade as

heterosexuals. You will be shocked and frightened when you find that your presidents and their sons, your industrialists, your senators, your mayors, your generals, your athletes, your film stars, your television personalities, your civic leaders, your priests are not the safe, familiar, bourgeois, heterosexual figures you assumed them to be. We are everywhere; we have infiltrated your ranks. Be careful when you speak of homosexuals because we are always among you; we may be sitting across the desk from you; we may be sleeping in the same bed with you.

There will be no compromises. We are not middle-class weaklings. Highly intelligent, we are the natural aristocrats of the human race, and steely-minded aristocrats never settle for less. Those who oppose us will be exiled.

We shall raise vast, private armies, as Mishima did, to defeat you. We shall conquer the world because warriors inspired by and banded together by homosexual love and honor are invincible as were the ancient Greek soldiers.

→ The family unit—spawning ground of lies, betrayals, mediocrity, hypocrisy and violence—will be abolished. The family unit, which only dampens imagination and curbs free will, must be eliminated. Perfect boys will be conceived and grown in the genetic laboratory. They will be bonded together in communal settings, under the control and instruction of homosexual savants.

→ All churches who condemn us will be closed. Our only gods are handsome young men. We adhere to a cult of beauty, moral and esthetic. All that is ugly and vulgar and banal will be annihilated. Since we are alienated from middle-class heterosexual conventions, we are free to live our lives according to the dictates of the pure imagination. For us too much is not enough.

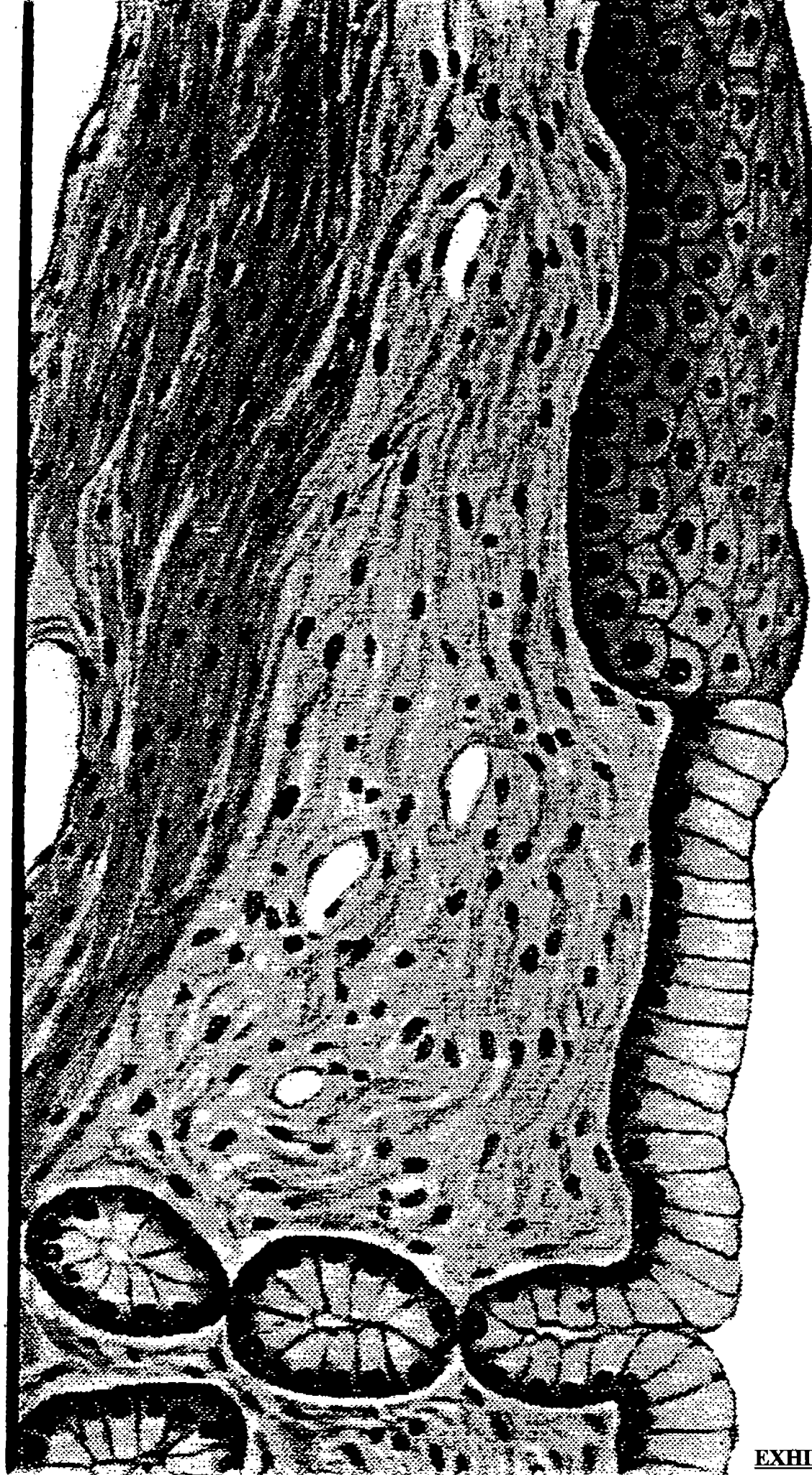
The exquisite society to emerge will be governed by an elite comprised of gay poets. One of the major requirements for a position of power in the new society of homoeroticism will be indulgence in the Greek passion. Any man contaminated with heterosexual lust will be automatically barred from a position of influence. All males who insist on remaining stupidly heterosexual will be tried in homosexual courts of justice and will become invisible men.

We shall rewrite history, history filled and debased with your heterosexual lies and distortions. We shall portray the homosexuality of the great leaders and thinkers who have shaped the world. We will demonstrate that homosexuality and intelligence and imagination are inextricably linked, and that homosexuality is a requirement for true nobility, true beauty in a man.

We shall be victorious because we are fueled with the ferocious bitterness of the oppressed who have been forced to play seemingly bit parts in your dumb, heterosexual shows throughout the ages. We too are capable of firing guns and manning the barricades of the ultimate revolution.

Tremble, hetero swine, when we appear before you without our masks.

Thank you for reading this into the record for me - I regret being unable to attend personally. I did special order this from the Congressional record files and your assistance is very much appreciated. I thought it very important for all. I will order a transcript to be able to hear everyone else.



Anus

From CIBH Digestive System
Netter

Rectum

From Ham textbook of histology

The Vagina

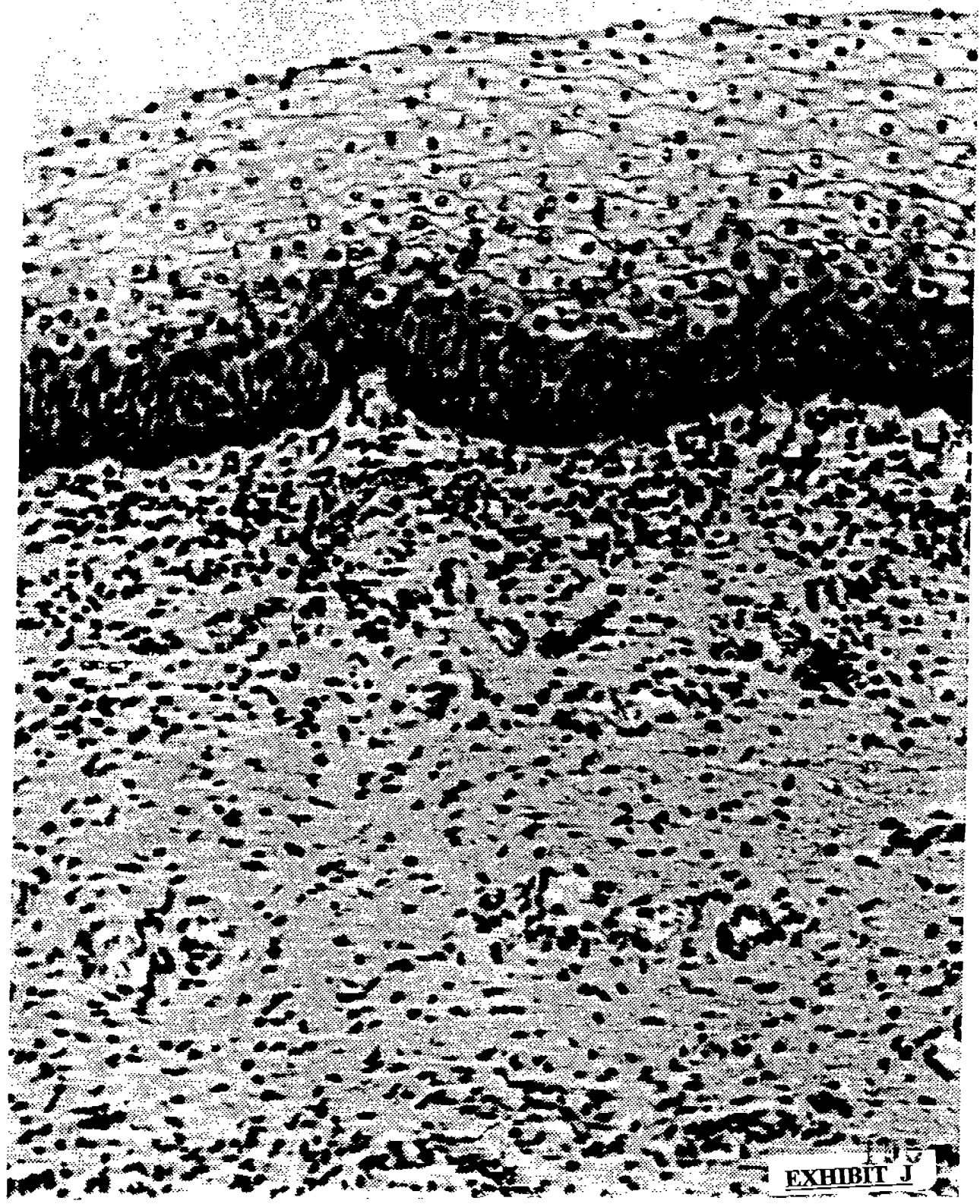


EXHIBIT J

1. Amend section 1, by deleting lines 4 and 5 and inserting:
"intercourse, cunnilingus or fellatio in a public place or facility shall be guilty of a gross misdemeanor.

2. Amend section 1, by deleting lines 6 and 7 and inserting:
[The "infamous crime against nature" means anal intercourse, cunnilingus or fellatio between consenting adults of the same sex.]
As used herein, a "public place or facility" shall not cease to be public simply because an admission fee is charged.

3. Amend the bill as a whole by adding a new section to read as follows:

The board of trustees of a school district shall not establish or permit any program or portion of a program that in any way teaches, counsels, or promotes a homosexual lifestyle or the infamous crime against nature, except to provide factual information regarding the dangers of such activities in accordance with NRS 389.065, without providing a complete and accurate description of the program and any materials to be utilized to the parent or guardian of each pupil to be required, encouraged, or invited to participate, and obtaining the prior written consent of the parent or guardian for each occasion on which the pupil will be required, encouraged, or invited to participate in such a program.

4. Amend the bill as a whole to add a new section to read as follows:

1. Any person who, after testing positive in a test approved by the state board of health for exposure to the human immunodeficiency virus and receiving actual notice of that fact, willfully or wantonly engages in conduct in a manner that is intended or likely to transmit the disease to another person is guilty of a felony and shall be punished by imprisonment in the state prison for not less than 1 year nor more than 20 years, or by a fine of not more than \$10,000, or both fine and imprisonment.

2. It shall be a defense to the crime described in subsection 1 if the victim ~~was the spouse of the defendant~~ and was notified of the positive test prior to the conduct.

5. Amend the bill as a whole to add a new section to read as follows:
No house of prostitution may be licensed in this state if it permits sexual conduct for a fee between members of the same sex.

June 9, 1993

TO: All Assemblymen

FROM: Fran A. Butler



SUBJECT: SB466-Repealing Sodomy Law

June 9, 1993 ABC World Wide News with Peter Jennings reporting on Nevada State Prison's inmates filing thousands of law suits.

As Peter Jennings reported some of the "Bizarre Law Suits":

1. Randy Wiederman, Nevada State Prison's inmate sued to be allowed to marry his "Cell Mate". He applied and received a marriage certificate from California because NEVADA LAWS WOULDN'T ALLOW IT!!

We already have laws not allowing any type of sexual conduct in public. Repeal or delete and change one wording of our Sodomy Law and you will open up a can of worms for even more bizarre law suits then you could ever imagine.

Exhibit
THIS ~~EXHIBIT~~ IS 40 PAGES LONG.
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FOR A COPY OF THE COMPLETE ~~EXHIBIT~~

Exhibit EXHIBIT L



DOCUMENTS FOR THE RECORD

- A. Correspondence from Nevada Attorneys for Criminal Justice
- B. Affidavit of Rabbi Mel Hecht
- C. Affidavit of Professor John Boswell
- D. Affidavit of Bishop Thomas Gumbleton
- E. Affidavit of Rev. H. Darrell Lance, Ph.D.
- F. Affidavit of Maralee Mayberry and Barbara G. Brents
- G. Affidavit of Donald P. Gagliardi, Esq.
- H. Affidavit of David McWhirter, M.D.
- I. Affidavit of Jerry Cade, M.D.
- J. Affidavit of Melvin I. Pohl, M.D.
- K. Affidavit of Patrick S. Harper, D.D.S.
- L. Affidavit of Martin Raff, M.D., J.D.

NCE



Nevadans for
Constitutional
Equality

702/735-6943

3187 S. EASTERN AVE SUITE 5
LAS VEGAS, NEVADA 89109

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Exhibit

EXHIBIT L

194

41.

ASSEMBLY DAILY JOURNAL

6-14-93

— 15 —

Assemblyman Porter moved that the bill be referred to the Committee on Commerce.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 310.

Bill read third time.

Remarks by Assemblyman Myrna Williams.

Roll call on Senate Bill No. 310:

YEAS—41.

NAYS—None.

Absent—Haller.

Senate Bill No. 310 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Arberry moved that Assembly Bill No. 618 be taken from the General File and placed on the Chief Clerk's desk.

Remarks by Assemblyman Arberry.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 335.

Bill read third time.

Remarks by Assemblyman Price.

Roll call on Senate Bill No. 335:

YEAS—41.

NAYS—None.

Absent—Haller.

Senate Bill No. 335 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 466.

Bill read third time.

The following amendment was proposed by Assemblyman Scherer:

Amendment No. 863.

Amend the bill as a whole by renumbering sections 1 through 3 as sections 2 through 4 and adding a new section designated section 1, following the enacting clause, to read as follows:

“Section 1. Chapter 201 of NRS is hereby amended by adding thereto a new section to read as follows:

Any person who, after testing positive in a test approved by the state board of health for exposure to the human immunodeficiency virus and receiving actual notice of that fact, willfully or wantonly engages in conduct in a manner that is intended or likely to transmit the disease to another person shall be punished by imprisonment in the state prison for not less than 1 year

nor more than 20 years, or by a fine of not more than \$10,000, or by both fine and imprisonment.”.

Amend section 1, page 1, by deleting lines 2 through 7 and inserting:

“201.190 1. Except as *otherwise* provided in NRS 200.366 and 201.230, every person of full age who commits [the infamous crime against nature shall be punished by imprisonment in the state prison for not less than 1 year nor more than 6 years.

2. The “infamous crime against nature” means anal intercourse, cunnilingus or fellatio between consenting adults of the same sex.] *anal intercourse, cunnilingus or fellatio in a public place or facility is guilty of a gross misdemeanor.*

2. *For the purposes of this section:*

(a) *“Public place or facility” does not include a place of lodging or other place where there is a reasonable expectation of privacy.*

(b) *A public place or facility does not lose its character as such solely because a fee is charged for admission.”.*

Amend the bill as a whole by renumbering sections 4 through 6 as sections 9 through 11 and adding new sections designated sections 5 through 8, following sec. 3, to read as follows:

“Sec. 5. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

No house of prostitution may be licensed by the board of county commissioners if the house of prostitution permits sexual conduct for a fee between members of the same sex.

Sec. 6. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

No house of prostitution may be licensed by the governing body of an incorporated city if the house of prostitution permits sexual conduct for a fee between members of the same sex.

Sec. 7. Chapter 269 of NRS is hereby amended by adding thereto a new section to read as follows:

No house of prostitution may be licensed by the board of county commissioners or town board in an unincorporated town if the house of prostitution permits sexual conduct for a fee between members of the same sex.

Sec. 8. Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The board of trustees of a school district shall not establish or permit any program or portion of a program that in any way teaches, counsels or promotes a homosexual lifestyle or the infamous crime against nature, except to provide factual information regarding the dangers of such activities in accordance with NRS 389.065, without:*

(a) *Providing a complete and accurate description of the program and any materials to be utilized to the parent or guardian of each pupil to be required, encouraged or invited to participate in the program; and*

(b) *Obtaining the prior written consent of the parent or guardian for each occasion the pupil will be required, encouraged or invited to participate in the program.*

2. *As used in this section, "infamous crime against nature" means anal intercourse, cunnilingus or fellatio between natural persons of the same sex."*

Amend the title of the bill to read as follows:

"An Act relating to sexual conduct; making it unlawful to engage in certain conduct through which the human immunodeficiency virus may be transmitted after testing positive for the disease; revising the prohibition against certain sexual conduct; prohibiting the licensure of a house of prostitution if it permits sexual conduct between members of the same sex; prohibiting instruction of a pupil in a public school concerning homosexual activity without the consent of the parent or guardian; providing penalties; and providing other matters properly relating thereto."

Amend the summary of the bill to read as follows:

"Summary—Makes various changes relating to sexual conduct. (BDR 15-1219)".

Assemblyman Scherer moved the adoption of the amendment.

Remarks by Assemblymen Scherer, Sader, Giunchigliani, Wendell Williams, Collins, Augustine, Porter, Anderson and Carpenter.

Assemblyman Giunchigliani requested that the following remarks be entered in the Journal.

ASSEMBLYMAN SCHERER:

Thank you, Mr. Speaker. This amendment addresses a number of concerns that have come up regarding this bill. The first change would make it a criminal act to willfully or wantonly infect someone with the AIDS virus, HIV. The second change would reduce the penalty which was put in by the Senate, which would make public sexual acts a felony. This would reduce them to a gross misdemeanor. It is my profound belief that with our scarce prison resources to make this crime a felony would be a misuse of those resources. We should save those resources for people who are truly a danger to society, and especially violent offenders rather than using them for this type of crime. The next amendment clarifies the definition of public. It is extraordinarily ambiguous in the current bill what constitutes being in public. This would provide a definition for that. The next section and the next several sections of the amendment all do the same thing, which is to outlaw or express the state's position that the counties may not license houses of prostitution for members of the same sex. The purpose of this is based on the statistics that I have seen in a number of different studies related to the health aspects that I believe would end up being a burden to taxpayers if we were to allow same-sex brothels in this state. Finally, and what I believe is most important, the amendment gives parents the right to be informed of, and to give their consent to, any teachings or promotions of any of the acts that have previously been crimes, the infamous crime against nature or the homosexual lifestyle. While I truly believe that the government should stay out of people's bedrooms and there should be a right to privacy, I similarly believe that the government should stay out of our children's minds and allow parents the right to be involved in children's education especially when attendance at public schools is compulsory. There is no choice not to attend, not to send your children to school unless you are fortunate enough to be able to afford to send your child to another school. This would allow parents simply the right to be informed and to give their consent. Those parents who did want their children to be involved in those programs could have them involved; those who did not would be allowed to keep their children out of those specific programs. On a controversial subject such as this, all of you have seen how controversial this has been in the last several weeks, I think it is the parent's right to be informed of this type of subject matter being taught in schools and to object to it if they so choose. And, with that, I would urge my colleagues to support this amendment.

ASSEMBLYMAN SADER:

Thank you, Mr. Speaker. I rise in opposition to this amendment. This amendment was also tried in committee, and the committee rejected it after three hours of hearing the subject matter. With the exception of section 1, this amendment deals with the litany of fears of what this bill will do if it is passed. So they are really unrelated subjects to the issue of repealing a criminal law. I would like to deal with the amendment on a section by section basis. The first section, the one that does deal directly with statutes at hand, would reduce the penalty for committing certain sexual acts in public from a felony to a gross misdemeanor. I really agree with the substance of this. I think it is a mistake to go to a felony. However, I have inquired at some length on the Senate side as to whether or not the amendment such as this in Section 1 would be accepted. And, while there may be others that differ with the analysis given to me, I have been told that if this amendment goes on the bill, the bill will die in the Senate. It will not get concurrence, will not get a consensus back from the senators. And, for that reason, I oppose Section 1, a section I would otherwise support. Now, the other aspect of Section 1 the suggestion that by creating a felony for heterosexuals to engage in certain acts in public would flood our current prison system is unfounded. In fact, I checked. And those who are currently incarcerated under this law, whether it is in private or in public of the same sex, and found that there is literally no one in prison at this time with these factual circumstances that would give rise to a violation of this kind. In fact, there is no one in the prison system who has been convicted of this statute since 1977. So the suggestion that by increasing the penalty it is going to flood the prison system, I would suggest to you, is simply not supported by the facts. Sections 5, 6, 7 and 8 and 65 and 67 all deal with counties and how they regulate the brothel industry. I really think this is a red herring. We currently allow counties to regulate what they do in the brothel business. If you check the county laws you will find that all counties except one already prohibit homosexuals operating as prostitutes in the State of Nevada. And, finally, and to me the most objectionable section of this amendment is number 8, dealing with the education and the school districts and it is objectionable not in its substance, but what it tells the school district. I have thought for a long time that we in the legislature are much too quick to exercise our powers to regulate and to legislate what the local school districts do in curriculum. It is about time we take a look at this practice. These people are elected. School district boards of trustees are elected by the people specifically with the idea in mind that they are going to set curriculum. Why should we, in the legislature, usurp that power, even though we have the raw power to do it? Why should we be telling them what to do in the local school districts for their curriculum? I would suggest to you that there will be some school districts who will institute these kinds of changes. It should be done on a district by district basis for those people, or from those people, who are elected to do that job, not from us.

ASSEMBLYMAN GIUNCHIGLIANI:

Thank you, Mr. Speaker. Just a point of clarification through you to the education chairman. I just wanted to ask a question. Is there currently a law on the books regarding sexual education curriculum which mandates that local parents and groups must create the curriculum rather than us, and therefore would this be in conflict with it?

ASSEMBLYMAN WENDELL WILLIAMS:

Thank you, Mr. Speaker. To you, and through you to my colleague from district 9, chapter 389.65 actually deals with all issues that concern sexuality in schools. Mr. Speaker, just to answer the question, school districts are already doing that at this particular time. And it is all done with input by parents, it is all done in the public. What our current law at this particular time has given in reference to direction to school districts, the school board of trustees appoint an advisory panel consisting of nine people. Five of those people are appointed by the school district who have children currently in that school district. The other four people appointed are representatives of four different areas. Mr. Speaker, one is from medicine and nursing, one is from counseling, one is from the religious community and one is a person who deals with the actual teaching of students. What these people do is meet and review all materials that have anything to do with sexuality in schools. This review is done before the public; the public is invited to

come out. When they complete their work and review all materials that will be presented or possibly exposed to students, this information is brought back and recommended or not recommended to the board of trustees. That process is open to the public, as well. Then the board of trustees make a decision on that. After that happens, and let us say some particular provision is adopted, all parents who have children in that school district are notified about that. Those parents are then invited to review those materials, and then after that the materials are adopted. This can only be taught by teachers who are employed and licensed by the State of Nevada to work in that district. So basically, this item in the amendment is actually already being done by mandate by Chapter 389. Thank you.

ASSEMBLYMAN COLLINS:

Thank you, Mr. Speaker. Through you to this body, I am a member of the Judiciary committee that heard this legislation, and this amendment, as has already been mentioned, is similar to the amendment discussed in committee. The vote was 6 to 8, so it was very close to being divided; it wasn't like it was just killed in that committee. This amendment has very much merit, and I also believe that we should allow this amendment based on the comment from the education chairman. I'm on the education committee also, and the chairman of education says that there is already a law in place. My colleague from Washoe County says that we should not be addressing curriculum, but we all the time, as state lawmakers, address curriculum. And I believe that Senate Bill No. 466 would, in fact, change the laws and would change the direction of the board or panels in the school board areas that allow what is discussed in the classroom. So, I rise in support of my colleague's amendment.

ASSEMBLYMAN AUGUSTINE:

Thank you, Mr. Speaker. I rise in support of Amendment No. 863 and would like to specifically address Section 1 of the amendment. The original intent of Senate Bill No. 466 was to repeal a 1911 statute. While I agree that government does not belong in our bedrooms, I do believe that government should not take a step backwards and impose a penalty now reserved for society's worst criminals. Proponents of this bill have argued that we should pass Senate Bill No. 466 as it was amended by the Senate, and then the legislature can come back in two years and fix it by removing the felony clause. This does not appear to be good lawmaking to me. What happens to those who are arrested for this felony offense in the ensuing two years? There are still others, including the chairman of the Judiciary Committee, that argue that if we amend this bill in the Assembly, the Senate will not concur. If this is the case, it will be the first time I have seen this house take action predicated on what the Senate may or may not do. Two wrongs do not make a right, and I encourage my colleagues to support this amendment.

ASSEMBLYMAN PORTER:

Thank you, Mr. Speaker. I rise in opposition to Amendment No. 863 to Senate Bill No. 466 and to support the chairman of the Judiciary Committee. Mr. Speaker, we heard three hours of testimony, very heated testimony, and you have two groups that are very solidified in their positions on this issue. The chairman of the Judiciary Committee is correct. You are going to load this thing down so much that when it gets over to the Senate, they will not concur, and this legislation will die. This legislation should not die, Mr. Speaker, not at all. And for the prospect of the distinction between public and private, keep in mind that any of these acts dealt with on page 2, and my Latin is not very good so I will not attempt to pronounce them, but any of these acts taking place between heterosexual adults is open and gross lewdness and a felony now. So let us not kid ourselves, the distinction between public and private is not important from a prosecutorial point of view. There is a separate statute available for the prosecution of these acts by any adults of whatever gender from a felony standpoint. So do not be misled on that point. I would urge my colleagues to defeat this amendment. Thank you.

ASSEMBLYMAN SCHERER:

Thank you, Mr. Speaker. I rise to respond to some of the comments that have been made by both the chairman of Judiciary and the chairman of Commerce. First of all, open and gross lewdness is currently a gross misdemeanor for a first offense. It is only a felony

on a second offense. Whether this provision floods the prison system or not is not the entire issue. The issue is "should it be a felony?" I think the answer is, "it should not." A felony conviction on someone's record deprives him of his civil rights and is a tremendous blemish on his record that we should not impose lightly. The school issue is not dealt with directly. This amendment will deal with it directly. It is only dealt with in a somewhat ambiguous fashion talking about education related to HIV and to sex education. It does not provide for the kind of specific, complete and accurate notice that this amendment would provide for. The process described by the chairman of Education is one in which, unfortunately, many parents do not participate. It is not until they are informed that their students are going to be directly affected by this type of program that they then become concerned and wish to exercise the right to object. Unfortunately, by then it is frequently too late.

The chairman of Judiciary told us that this amendment deals with a number of fears that have been raised really not related to the bill. I think it would be irresponsible for us not to look at the ramifications of this legislation and not to deal with those ramifications. I have not seen that issue or that argument made on any other bill that has flown through this Assembly. We always try to look carefully at what the consequences of a bill will be in the future, and I would ask that we do the same on this bill.

Finally, with regard to, again, the issue of schools, the chairman of Judiciary argues that we should not micro-manage the school districts. I would only say that we have, just this session, passed bills that have specified curriculum for each of the school districts, and they have flown out of this body virtually unanimously without those same objections. I would ask that my colleagues treat this issue consistently in that respect. Thank you.

ASSEMBLYMAN ANDERSON:

Thank you, Mr. Speaker. I rise in opposition to Amendment No. 863 to Senate Bill No. 466. I am sure many of us would like to keep quiet and sit quietly about such an important piece of legislation, and indeed that has been my intention. Section 8 of this particular amendment, however, raises, I think, a particular concern that I think I stand in a better position to remark to than possibly any of my fellow colleagues here. I teach American government and American history at a high school at which the mandated sex education program takes place. In fact, in Washoe County the very first set of those programs were put on in my classroom, and I want to assure the members that, even though many parents choose not to become involved in the educational system, unfortunately at all levels, which is one of the great tragedies in American education today. We cannot proceed with this particular program unless we have a signed affidavit from each and every parent. Any student in my classroom who has not returned such a document to me prior to the program must be placed in a program away from that classroom without embarrassing the student, number one. Number two, for those of you who have had the opportunity to read my biography in the Legislative Manual may note that I am a product of not public education, but parochial education, and have very close ties to people who teach at that level. I know from first-hand experience in talking to those teachers what takes place in their classrooms. They have greater freedom to teach, to respond to questions, meaningful questions from their students than I do as a public educator in part because we have tied my hands. I cannot respond to a question, a direct question, that deals with the AIDS program and how it might be transmitted. I must wait for the authorized program to take place.

The supposition that is put forth in Section 8 of the amendment is exactly the program that is followed in Washoe County. I can testify to it, I know it takes place. This is unneeded legislation. It is there for "spit and polish" only. It does nothing to advance the argument.

Secondly, if I may, Mr. Speaker, continue on, today, June 14, is Flag Day. At the beginning of every one of our sessions, we stand and pledge to that flag. At the end of that pledge, we use that trite phrase, "liberty and justice for all." All means, indeed, all. If those words are not going to be hallow, how then can we discard one group of humanity by placing them into a different section? How can we look at them and believe that they are part of all of us, of we the people? That is a concept I strongly believe in and will not shrink from. I encourage my fellow members to defeat this amendment and move to the immediate passage of the bill itself.

ASSEMBLYMAN WENDELL WILLIAMS:

Thank you, Mr. Speaker. Again, in reference to the subject of education, allow me to maybe provide a little more specificity to how the process works with parents. I think I explained how the selection is made for the advisory group, but we would all like to involve more parents in every aspect of education if we are really going to talk about reforming education. But currently, under our statutes, Mr. Speaker, the parents of each particular student who may be exposed to a class that has anything to do with sexuality will be informed in writing that the particular class will be offered. That particular notice has a form for the parent or guardian's signature to be returned. If, in fact, as my colleague from Sparks indicated, that if that form is not signed, the student is not expected to attend the class nor is he penalized for the credit for graduation if he doesn't take the class if it is a high school class. After that, the materials and the course of study will be placed in a situation where parents can see it before the class starts. The parents again will be notified in writing that those materials are available for public review and for perusal by those particular parents. That's two written notifications to parents, and after that particular case again, those must be furnished to each particular parent of every student in the school district, so the parents actually have five different occasions to be involved, either by public review or by public participation, and two separate occasions where they are notified in writing to respond. So, that is clearly covered under our statutes. Finally, we give the overall and general directions for school districts, the legislature does, but we don't give the specific directions on what they should do for each particular item, but we give enough latitude where local districts can control it, but parental notification is given on two different occasions in writing.

ASSEMBLYMAN CARPENTER:

Thank you, Mr. Speaker. There is one part of this amendment that I feel very strong about and that is the part that reduces the penalty from a felony to a gross misdemeanor. I just don't think that we should be making this kind of a crime a felony when, on the other hand, we're taking all penalties away from persons that want to do other kinds of sex acts. I think this is really a real mistake, and, as the chairman of Judiciary said, he agrees that this should be a gross misdemeanor and not a felony. If we make a real reason judgment here, I see no reason that the Senate should not go along with us unless they're really having second thoughts about the whole bill. So, I especially want to speak in favor of reducing this penalty. Thank you, Mr. Speaker.

Assemblymen Scherer, Humke and Tiffany requested a roll call on Amendment No. 863.

Roll call on Assemblyman Scherer's motion:

YEAS—12.

NAYS—Anderson, Arberry, Bache, Bennett, Bonaventura, Chowning, de Braga, Evans, Freeman, Giunchigliani, Gregory, Kenny, Lambert, McGaughey, Neighbors, Perkins, Petrak, Porter, Price, Regan, Sader, Schneider, Segerblom, Smith, Spidler, Tiffany, Toomin, Myrna Williams, Wendell Williams—29.

Absent—Haller.

The motion having failed to receive a majority, Mr. Speaker declared it lost.

Remarks by Assemblymen Sader, Bonaventura, Kenny, Garner and Scherer.

Assemblyman Giunchigliani requested that the following remarks be entered in the Journal.

ASSEMBLYMAN SADER:

Thank you, Mr. Speaker. I rise in support of Senate Bill No. 466, and I am going to take a couple of minutes, at your leave, to explain a few things about this bill. It's a very simple bill in concept, but it is extremely complicated in its subject matter when you deal with the arguments of proponents and opponents on this bill. The bill came out of the

Judiciary Committee with a nine to five vote. I have a floor statement here prepared by staff which is quite simple and very concise on what the bill does. Senate Bill No. 466 revises the state law concerning sexual conduct. The bill removes the prohibition against performing certain anal and oral sexual activities in private between consenting adults of the same gender. The measure provides that performing such sexual activities in public, regardless of the gender of the participants, constitutes a felony. Senate Bill No. 466 is effective on passage and approval. Now, that's all the bill does. The bill deletes a portion of the law passed in 1911 dealing essentially with sodomy and certain oral sexual practices. The effect is to decriminalize anal and oral sex by those of the same sex when done in private.

Now, one might then wonder why this is such an intensely lobbied bill. Why is this one of the hottest bills of the entire legislative session? To explain that, Mr. Speaker, I think we should summarize the arguments that were presented to the committee for those who are not on the committee. They illustrate, I think, the breadth of disagreement on the subject matter and the other issues that come to play. First, the committee heard there is a major health issue involved in this bill. Those who oppose the bill suggest that repealing this law condones homosexuality, and in doing so, promotes the spread of AIDS and other diseases and other physical effects associated with a gay lifestyle. In essence, the message is, "gay lifestyle kills." The proponents of this bill, on the other hand, suggest that change is needed in fighting against AIDS. In that category are the Clark County Health Department, Washoe County Health Department, and Dr. Jerry Cade who is the physician who has handled more AIDS patients in this state than any other physician, and he says over a majority of all AIDS patients in this state. I can summarize the arguments of the proponents by quoting from Mr. Otto Ravenholt's letter, the chief health officer of the Washoe County Health District. He says, "Our mission is to promote health and prevent the spread of disease. The sodomy law is not effective in controlling private sexual behavior between consenting adults, but it is, rather, to those of us trying to limit the spread of AIDS in Nevada, a barrier. This is because people who may be engaged in high-risk behavior for AIDS infection are deterred from being tested for the disease because they fear being reported for breaking the sodomy law." That's the health issue.

The next major issue is one of individual rights. This involves the right to privacy and the right to equal protection. Proponents of the bill argue that consenting adults should be left alone. What they do in private is no business of government, particularly when you deal with a law that currently prohibits individuals of the same sex from doing some practices that non-heterosexuals feel is a major equal protection argument. Opponents of the bill suggest, on the other hand, that there is no constitutional right to be a homosexual, and they cite supreme court cases dealing with sodomy laws which basically say exactly that—there is no constitutional right currently to be a homosexual. Opponents would go even farther to say there is no right to be a pervert.

Now on the religious side of this, there are major religious undercurrents to this bill. Opponents would say that this bill and sodomy in general is against teaching in the Bible and other religious documents. In this category are substantial elements of Baptist churches, Mormons and Catholics. Proponents, on the other hand, suggest that this is not a biblical mandate. Religious doctrine does not define a sexual practice like this, this is rather a social issue. In this category we found Jewish leaders and certain aspects of the Jewish religion, particularly rabbis in Las Vegas and Reno who wrote to the committee. We find some Presbyterians, and other noted religious revolutionaries such as those; we find the Church of Religious Science and we even had an affidavit from a Catholic bishop from Michigan, just to show that Catholics are not uniformly united on this issue of religious doctrine.

Let's talk about the political overtones of this bill. The proponents would cite Democratic party platforms, locally and in states in many areas, which suggest these kinds of laws should be repealed. Libertarians also believe that these kinds of laws should be repealed. Opponents, however, include substantial elements of the Republican party with local and state platforms in many Republican party dogma, distinctions made on this question and it should not be repealed. The American Independent party believes, as well, this law should stay. Political groups, proponents, gays and lesbians—we heard from those organizations as well as a very healthy individual response from a number of people

suggesting we should repeal this law, the American Civil Liberties Union, the Nevada Women's Lobby, the National Organization of Women, the Nevada Trial Lawyers, all proponents of this bill. Against the bill, however, were the Nevada Eagle Forum, Nevada Coalition for Conservative Citizens, and a very substantial number of individual citizens who have been phoning and writing in great numbers to suggest that we do not repeal this law.

Finally, there is what I would call an underbelly of fear and hatred related to this law, one that both sides practice, neither side is exempt from. Opponents suggest that there is a nefarious gay agenda in our society and that this bill will further that gay agenda. They suggest that now we will be helping to infiltrate the Boy Scouts, that we'll be teaching gay rights in school, that gays will entrap and ensnare our youth in their hideous practices, etc. Proponents, on the other hand, suggest that we should not be furthering the agenda of the religious right and suggest, as well, the litany of the terrible things that are going on in Africa.

In essence, Mr. Speaker, there is really something for everybody in this bill. It's a simple bill but with a very complicated concept and array of social issues. In fact, you could write a doctoral thesis on social issues in America simply by taking a look at what this bill brings up in arguments from proponents and opponents. So, I feel it necessary, Mr. Speaker, to focus, to focus the argument for me, I think, and for a majority of the committee, on the issue that really matters here, and that is the question of individual rights and personal freedom in America in the 1990s. We have a fast changing society; we have one that is very difficult to keep up with. The law never keeps up with society when it changes as fast as ours does. In a situation like this, we should look at the fundamental principles which guide us as Americans and look toward the future with those principles in mind. Now, the question of public and private sex acts is not a newcomer to the law. In fact, a majority of the law on privacy, the constitutional law on privacy, has been written with these cases as subject matter. The question of the government in the bedroom is one that has been argued long and hard in this country. The law in our country, and in most countries, tends to follow a sense of moral judgment in our community, and I would suggest to you that in America, it always will and it always should.

In the past we've had laws which have prohibited all sorts of sexual practices, and those laws have been enacted because the moral sense of the community at the time mandated it, at least in the eyes of legislators. We have had laws against birth control; we have had laws against masturbation; we've had lots of laws against abortion that we're all aware of; and we've had laws against sodomy. These laws die hard, and always die with tremendous disagreement. Government fails miserably at regulating what people do in their sex lives in private. Laws like this raise questions of bedroom police, of vehicles to oppress minorities, of discriminate enforcement of the law against people you don't like but not against people you like. That's the potential, that is oftentimes the practice with laws like that today. One of the results of this law we currently have in Nevada is that it is not enforced. Some say it is unenforceable. I suggested to you earlier, and the facts are accurate on this, that we have not incarcerated a person in the State of Nevada for a violation of this law since 1977. Now why is that? Because people consider it to be unenforceable and because other laws are there to handle acts in public committed when the public conscience is offended.

Finally, another aspect of this that came before the committee as a sort of undercurrent, was fear, intolerance, misunderstanding, and hatred. Those all exist. I think they are dramatically seen by the opponents of this bill. In my view, and I believe the majority of the committee, I would suggest to you that it is time to revise a law which has outlived its usefulness, a law which was enacted in 1911. It's time to recognize the changes in society, for better or for worse, and particularly that homosexuals are now out of the closet and you can't put them back in the closet. You have to deal with this aspect of lifestyle, and a law that prohibits the practice commonly used by many homosexuals in their private lives is not healthy in dealing with changing society. It's time to accept that we have people of different sexual predilections, that we have people who are simply different from ourselves, and there is nothing necessarily wrong with them, certainly nothing we should criminalize. It's time to include a growing minority in our society today in the main-

stream. It's definitely time to repeal a hypocritical, criminal law which is neither enforceable or even used in the last decade. It's time to look toward the future and hope for more understanding, more tolerance, and more acceptance of those who are different from ourselves. And it's time to reject the past of hatred, intolerance, and fear which is the rule today. Thank you.

ASSEMBLYMAN BONAVENTURA:

Thank you, Mr. Speaker. I rise in opposition to Senate Bill No. 466. The majority of the people in my district are opposed to this legislation. They cannot understand how the passage of the bill could benefit anybody in Nevada. We are concerned about the kind of image that Nevada will get if this legislation passes. I sincerely hope the people of Nevada can count on us to vote for decency. I applaud those members who have taken a stand for the defeat of this bill and also those who voted against it. I assure you that the majority of Nevadans are against the bill.

We need to protect our children from being exposed to this socially destructive behavior. The decision you make today will affect your children, your grandchildren and maybe even your grandchildren's children. If you're thinking about voting for this bill, please ask yourself if you are representing the people of Nevada or a small minority group. Nevadans do not want this legislation to pass. Remember, the people in your districts are those you represent. Sometimes we forget or look sideways at why we are elected and how we got here. So, let me remind everybody in this great body that we were elected by the people in our districts. They expect us to vote to represent the majority of them. If you vote for Senate Bill No. 466, you are voting against the will and the majority of the people who put you here. If you vote against the will of the people in your district, you will have failed to represent them. Thank you.

ASSEMBLYMAN KENNY:

Thank you, Mr. Speaker. I rise in support of Senate Bill No. 466. As I do every day that I serve in this honorable body, I reflect upon all of our deliberations as an elected official, a mother of three—soon to be four—a business owner, a community activist and a resident of Nevada.

Throughout this session, no other bill has received this much attention. My feeling is that the real issue addressed in Senate Bill No. 466 has unfortunately been directed off course. The issue, the point or the heart of this bill reflects solely upon an individual's right to privacy. I have pledged to represent my district, and I ran as a candidate whose concerns mirrored the concerns of my constituency. I have searched deep inside myself, counseled with my church, my family members and many constituents.

Although this bill has divided many of our districts, the real issue being addressed in this bill is the cord that must unify us, an individual's right to privacy. An individual's right to privacy is as precious and protected as our rights to freedom of religion, our rights to bear arms and our rights to free speech. Over the course of this session, our Majority Leader has asked us on several occasions to favor human rights above all else. Again, today we are asked to make such a decision.

I do not believe that any of us intends to condone or condemn anyone's lifestyle with the passage of Senate Bill No. 466, but rather to protect those rights given to us by our forefathers. I cast my vote today believing my children and the children I represent are safe in their homes, in their schools and in their neighborhoods. It is with a clear conscience that I urge my fellow legislators to support Senate Bill No. 466.

ASSEMBLYMAN GARNER:

Thank you, Mr. Speaker. After giving this issue my most serious consideration, I rise today in opposition to Senate Bill No. 466. In the strongest terms I can express, I urge this house to reject this legislation. From the results of the vote already taken, I may be wasting my time. I cannot help but express myself on this issue. I believe it sent the wrong message to the citizens of our state. It jeopardizes their physical and mental health and well-being. We have all heard the statement that we should not attempt to legislate morality, and I agree. I do not think we should either, but, at the same time I do not think that we should legislate immorality. With those remarks I would also like to say that I am not standing here out of fear or intimidation or hatred or any such other thing that has been

mentioned here today. I just think it is plain wrong and I believe we are making a mistake by passing this bill. Thank you very much.

ASSEMBLYMAN SCHERER:

Thank you, Mr. Speaker. I rise briefly to explain my opposition to this bill. I support the right to privacy. We have heard a lot about that today and I do support it. I do not think that this law should be used against consenting adults in the privacy of their own home, but I feel that we have failed to deal with the ramifications of the law. I feel that we, in a rush to satisfy the interests that support this bill, have failed to be as thorough and as careful as we are with most other measures that come through this body, and for that reason I will be opposing the bill.

Roll call on Senate Bill No. 466:

YEAS—29.

NAYS—Augustine, Bonaventura, Carpenter, Collins, Garner, Hettrick, McGaughey, Marvel, Neighbors, Scherer, Smith, Tiffany—12.

Absent—Haller.

Senate Bill No. 466 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 106, 198, 436, 523; Assembly Concurrent Resolutions Nos. 68, 70.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Evans, the privilege of the floor of the Assembly Chamber for this day was extended to Ms. Leslie Fiske.

On request of Assemblyman Gibbons, the privilege of the floor of the Assembly Chamber for this day was extended to Mss. Ellen Thompson, Judith Holt, Mary Atcheson, Toni de Salvo, Lucy Nieder, Messrs. Jeffrey Thompson, Harold Thompson, Gordon Thompson and Fred Atcheson.

On request of Assemblyman Gregory, the privilege of the floor of the Assembly Chamber for this day was extended to Mr. Kevin Kelly.

On request of Assemblyman Price, the privilege of the floor of the Assembly Chamber for this day was extended to Mr. Lee Plotkin and Ms. Marilee Joyce.

Assemblyman Porter moved that the Assembly adjourn until Tuesday, June 15, 1993, at 11 p.m.

Motion carried.

Assembly adjourned at 1:37 p.m.

Approved:

JOSEPH E. DINI, JR.
Speaker of the Assembly

Attest: MOURYNE B. LANDING
Chief Clerk of the Assembly



appropriate revisions within 30 days. If the agency is a licensing board as defined in NRS 439B.225 and the proposed regulation relates to standards for licensing or for the renewal of a license issued to a person or facility regulated by the agency, the legislative counsel shall also deliver one copy of the approved or revised text of the regulation to the legislative committee on health care.

3. An agency may adopt a temporary regulation between [September] *August 1* of an even-numbered year and [June 15] *July 1* of the succeeding odd-numbered year without following the procedure required by this section and NRS 233B.064, but any such regulation expires by limitation on [September] *November 1* of the odd-numbered year. A substantively identical permanent regulation may be subsequently adopted.

4. An agency may amend or suspend a permanent regulation between [September] *August 1* of an even-numbered year and [June 15] *July 1* of the succeeding odd-numbered year by adopting a temporary regulation in the same manner and subject to the same provisions as prescribed in subsection 3.

Sec. 2. This act becomes effective upon passage and approval and applies to temporary regulations adopted between September 1, 1992, and the effective date of this act.

Senate Bill No. 466—Committee on Commerce and Labor

CHAPTER 236

AN ACT relating to crimes; prohibiting certain sexual conduct in public; and providing other matters properly relating thereto.

[Approved June 16, 1993]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 201.190 is hereby amended to read as follows:

201.190 [1.] Except as provided in NRS 200.366 and 201.230, every person of full age who commits [the infamous crime against nature] *anal intercourse, cunnilingus or fellatio in public* shall be punished by imprisonment in the state prison for not less than 1 year nor more than 6 years.

[2. The "infamous crime against nature" means anal intercourse, cunnilingus or fellatio between consenting adults of the same sex.]

Sec. 2. NRS 201.195 is hereby amended to read as follows:

201.195 1. Any person who incites, entices or solicits a minor to engage in acts which [would] constitute the infamous crime against nature : [if performed by an adult:]

(a) If the minor actually engaged in such acts as a result, shall be punished by imprisonment in the state prison for not less than 1 year nor more than 6 years.

(b) If the minor did not engage in such acts:

(1) For the first offense, is guilty of a gross misdemeanor.

(2) For any subsequent offense, is guilty of a felony and shall be punished by imprisonment in the state prison for not less than 1 year nor more than 6 years.

2. A person convicted of violating any of the provisions of subsection 1 may not be:

(a) Paroled unless a board consisting of:

(1) The administrator of the mental hygiene and mental retardation division of the department of human resources or his designee;

(2) The director of the department of prisons or his designee; and

(3) A psychologist licensed to practice in Nevada or a psychiatrist licensed to practice medicine in Nevada,

certifies that the person so convicted was under observation while confined in an institution of the department of prisons and is not a menace to the health, safety or morals of others.

(b) Released on probation unless a psychologist licensed to practice in Nevada or a psychiatrist licensed to practice medicine in Nevada certifies that the person so convicted is not a menace to the health, safety or morals of others.

3. *As used in this section, the "infamous crime against nature" means anal intercourse, cunnilingus or fellatio between natural persons of the same sex. Any sexual penetration, however slight, is sufficient to complete the infamous crime against nature.*

Sec. 3. NRS 209.385 is hereby amended to read as follows:

209.385 1. Each offender committed to the custody of the department for evaluation or imprisonment shall submit to an initial test, approved by regulation of the state board of health, to detect exposure to the human immunodeficiency virus. At the time the offender is committed to custody and after any incident involving the offender:

(a) The test must be administered; and

(b) The offender must receive counseling regarding the virus.

2. If the results of any initial test are positive, the offender shall submit to a supplemental test approved for the purpose by regulation of the state board of health.

3. If the results of any supplemental test are positive, the name of the offender must be disclosed to:

(a) The director;

(b) The administrative officers of the department who are responsible for the classification and medical treatment of offenders;

(c) The manager or warden of the facility or institution at which the offender is confined; and

(d) Each other employee of the department whose normal duties involve him with the offender or require him to come into contact with the blood or bodily fluids of the offender.

4. The offender must be segregated from every other offender whose test results are negative if:

(a) The results of any supplemental test are positive; and

(b) The offender engages in behavior that increases the risk of transmitting the virus, such as battery, the infamous crime against nature, sexual intercourse in its ordinary meaning or illegal intravenous injection of a controlled substance or a dangerous drug as defined in chapter 454 of NRS.

5. The director, with the approval of the board:

(a) Shall establish for inmates and employees of the department an educational program regarding the virus whose curriculum is provided by the health division of the department of human resources. Any person who provides instruction for this program must be certified to do so by the health division.

(b) May adopt such regulations as are necessary to carry out the provisions of this section.

6. As used in this section [, "incident"] :

(a) "*Incident*" means any occurrence, of a kind specified by regulation of the state board of health, that entails a significant risk of exposure to the human immunodeficiency virus.

(b) "*Infamous crime against nature*" means anal intercourse, cunnilingus or fellatio between natural persons of the same sex.

Sec. 4. Section 1 of Senate Bill No. 13 of this session is hereby amended to read as follows:

Section 1. NRS 209.385 is hereby amended to read as follows:

209.385 1. Each offender committed to the custody of the department for evaluation or imprisonment shall submit to [an initial test,] *such initial tests as the director determines appropriate to detect exposure to the human immunodeficiency virus. Each such test must be approved by regulation of the state board of health . [, to detect exposure to the human immunodeficiency virus.]* At the time the offender is committed to custody and after any incident involving the offender:

(a) The [test] *appropriate approved tests* must be administered; and
(b) The offender must receive counseling regarding the virus.

2. If the results of any initial test are positive, the offender shall submit to [a supplemental test] *such supplemental tests as the director determines appropriate. Each such test must be approved for the purpose by regulation of the state board of health.*

3. If the results of any supplemental test are positive, the name of the offender must be disclosed to:

(a) The director;
(b) The administrative officers of the department who are responsible for the classification and medical treatment of offenders;
(c) The manager or warden of the facility or institution at which the offender is confined; and

(d) Each other employee of the department whose normal duties involve him with the offender or require him to come into contact with the blood or bodily fluids of the offender.

4. The offender must be segregated from every other offender whose test results are negative if:

(a) The results of any supplemental test are positive; and
(b) The offender engages in behavior that increases the risk of transmitting the virus, such as battery, the infamous crime against nature,

sexual intercourse in its ordinary meaning or illegal intravenous injection of a controlled substance or a dangerous drug as defined in chapter 454 of NRS.

5. The director, with the approval of the board:

(a) Shall establish for inmates and employees of the department an educational program regarding the virus whose curriculum is provided by the health division of the department of human resources. Any person who provides instruction for this program must be certified to do so by the health division.

(b) May adopt such regulations as are necessary to carry out the provisions of this section.

6. As used in this section:

(a) "Incident" means any occurrence, of a kind specified by regulation of the state board of health, that entails a significant risk of exposure to the human immunodeficiency virus.

(b) "Infamous crime against nature" means anal intercourse, cunnilingus or fellatio between natural persons of the same sex.

Sec. 5. NRS 201.193 is hereby repealed.

Sec. 6. This act becomes effective upon passage and approval.

Senate Bill No. 306—Committee on Finance

CHAPTER 237

AN ACT relating to projects of capital improvement; making an appropriation to the state public works board for certain projects; and providing other matters properly relating thereto.

[Approved June 16, 1993]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. There is hereby appropriated from the state general fund to the state public works board the sum of \$129,000 to expedite the carrying out of the program of capital improvements summarized in this section:

1. Capital improvements for the department of human resources:
Replace cooling tower and repair roof,
SNAMHS, Las Vegas 93-M7 \$83,041
2. Capital improvements for the department of prisons:
Fencing repairs at SNCC 93-M20 \$45,959

Sec. 2. This act becomes effective upon passage and approval.
