

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY
Seventy-Sixth Session
March 23, 2011**

The Committee on Judiciary was called to order by Chairman William C. Horne at 9:11 a.m. on Wednesday, March 23, 2011, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/76th2011/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman William C. Horne, Chairman
Assemblyman James Ohrenschall, Vice Chairman
Assemblyman Steven Brooks
Assemblyman Richard Carrillo
Assemblyman Richard (Skip) Daly
Assemblywoman Olivia Diaz
Assemblywoman Marilyn Dondero Loop
Assemblyman Jason Frierson
Assemblyman Scott Hammond
Assemblyman Ira Hansen
Assemblyman Kelly Kite
Assemblyman Richard McArthur
Assemblyman Tick Segerblom
Assemblyman Mark Sherwood

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman Lucy Flores, Clark County Assembly District No. 28

STAFF MEMBERS PRESENT:

Dave Ziegler, Committee Policy Analyst
Nick Anthony, Committee Counsel
Jean Bennett, Committee Secretary
Michael Smith, Committee Assistant

OTHERS PRESENT:

Terry Care, Private Citizen, Las Vegas, Nevada
Bill Uffelman, President and CEO, Nevada Bankers Association

Chairman Horne:

Today we have a work session scheduled. As a reminder, during work sessions there is no testimony given on a bill. However, one may be called to the witness table for clarification purposes. We will begin with Assembly Bill 91.

Assembly Bill 91: Enacts the Uniform Collaborative Law Act. (BDR 3-60)

Dave Ziegler, Committee Policy Analyst:

Assembly Bill 91 enacts the Uniform Collaborative Law Act ([Exhibit C](#)). It was presented on March 7, 2011, by former Senator and now Uniform Law Commissioner Terry Care and sponsored by Assemblyman Tick Segerblom. Among other provisions, A.B. 91:

- Establishes the requirements for an agreement to resolve the matter through a collaborative process.
- Provides that a court may not order a party to participate over the party's objection.
- Provides that the filing of an agreement operates as a stay of pending court proceedings.
- Authorizes a court to issue an emergency order during a collaborative process to protect the health, interest, safety, or welfare of a family member or party.

- Requires parties to make candid, complete, informal, and timely disclosure of relevant information without formal discovery.

With certain exceptions, A.B. 91 provides that a collaborative lawyer be disqualified from appearing before a tribunal to represent a party in a proceeding related to the matter. This act would apply to collaborative agreements signed on or after January 1, 2013.

On the day of the hearing, witnesses suggested two minor amendments, one of which refers to a collaborative agreement serving as a stay of proceedings, with the idea being that, as amended, it was agreed that the filing operates as an application for a stay. The other amendment, which is on page 6 of the bill, was strictly an editorial correction to fix a syntax error in a sentence.

Chairman Horne:

Are there any questions or concerns on A.B. 91?

Assemblyman Daly:

I wanted to put on the record that I had a discussion with legal counsel concerning the termination of a collaborative agreement. I feel that someone could construe going to court for an emergency measure as being a trigger to terminate the proceedings. I was told by counsel that it is necessary to read the Collaborative Act as a whole, so the Legislature is then presumed to know under case law all of the provisions as items are enacted. I agree it should be read as a whole and that the Committee's intent on passing it is so the use of the emergency measure will not be a trigger to terminate the collaborative procedure. I want to put that on the record just in case that, in the future, some lawyer wants to try to argue that issue. By looking at the legislative history, they will see what the intent was. That is the way I read the bill; that is what the bill is intended. That would be my intent when voting for A.B. 91.

Assemblyman Frierson:

I wanted to state on the record that this is one of the uniform codes of which I believe I have a solid grasp, as compared to some of them. From the testimony and the questions I asked, I believe this can be an opportunity for people to come to an amicable resolution and to save money in the process. Therefore, I will support the measure.

Chairman Horne:

I will entertain a motion.

ASSEMBLYMAN FRIERSON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 91.

ASSEMBLYWOMAN DIAZ SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairman Horne:

I will give this floor assignment to Mr. Segerblom. We will move on to Assembly Bill 92.

Assembly Bill 92: Provides for the waiver of fees for the issuance of certain forms of identifying information for certain persons released from prison. (BDR 40-598)

Dave Ziegler, Committee Policy Analyst:

Assembly Bill 92 is sponsored by Assemblywoman Flores, who presented the bill before this Committee on February 11, 2011 ([Exhibit D](#)). Assembly Bill 92 waives fees for six months for certain forms of identification for individuals being released from prison. The bill applies to fees for duplicate driver's licenses, duplicate identification cards, and copies of birth certificates. The bill authorizes a vendor that produces photographs for such driver's licenses and identification cards to waive the costs it charges the Department of Motor Vehicles (DMV). The bill authorizes the DMV to accept donations, gifts, and grants to cover the waived fees. On the day of the hearing, Mark Froese, the Administrator for Management Services and Programs Division at DMV, requested an amendment changing the effective date of the measure to allow additional time for implementation, specifically, programming. The DMV now requests that the measure be effective on February 1, 2012.

Chairman Horne:

Any questions on A.B. 92?

Assemblyman Segerblom:

This is a critical bill. There are so many people who come out of prison without some form of identification and, in today's society, it is impossible to function without this identification. When coming out of prison, they usually do not have the money to obtain the necessary identification. If the person was born somewhere other than Nevada, it is necessary for him to request the duplicate information from that state. It can be an incredible hassle for these people who are being released from prison. Anything we can do to assist them will be a positive thing. Religious Alliance in Nevada (RAIN) has been very helpful in this process. Currently, many churches are raising money to help pay for these

forms of identification. Anytime someone is released back into society as a functioning individual with a job, it benefits everyone.

Chairman Horne:

Thank you, Mr. Segerblom.

Assemblyman McArthur:

Is this bill really going to help the prisoners who are being released? I would like to see them hit the ground running. These people have plenty of time while in prison to obtain most of this identification before they are released. I think the ones who can get the identification before they get out are probably going to have a better chance of making it on the outside. I am not sure that giving them another six months is going to help. Can someone clarify why six months is necessary? I would like to see them helped, too, but how will this bill really help them?

Chairman Horne:

I do not know what can be added from prior testimony. It is clear that some, maybe not all, are exiting the prisons without identification. It is happening.

Assemblyman Sherwood:

I concur with Mr. Segerblom on this. I would like to commend RAIN for their help on this issue. The individual has a better chance at a stable life when released. There is no question about that. Assemblyman McArthur is concerned about the time period. Were we going to be addressed by the sponsor of the bill? We heard testimony that many of these people are getting a running start before they are released and we were considering 90 days rather than 120 days. I do not see an amendment to that effect. Were we supposed to have an amendment?

Chairman Horne:

Ms. Flores.

Assemblywoman Lucy Flores, Clark County Assembly District No. 28:

In subsequent conversations during the last 24 hours, there was some concern that perhaps a six-month period was too long. There was a suggestion that perhaps changing the bill to read 90 days was better. I am open and amenable to that. If someone would like to offer an amendment during work session today to change the time period to a 90-day eligibility period once the individual is released from prison, that is perfectly acceptable for me.

Assemblyman Sherwood:

If we are okay with that, at the appropriate time I would make a motion to amend and do pass.

Assemblyman Hansen:

I had the same concern about reducing it down to three months. The other thing is that when I talked to the prison staff, they said there is a policy in place that if a prisoner asks, he can receive a birth certificate. Apparently, there is no staff from the prisons at today's meeting. I was wondering if this could be made mandatory. The staff is already in place so there would be no additional staffing cost. This exact bill passed last session and failed because of the fiscal note attached to it. To try to reduce that as much as possible, such an amendment might make this bill practical. I have a gut feeling it will die as it did last session for the same reason if we do not amend it. If we want to accomplish something with this bill, and obtain the birth certificates for inmates who were born in Nevada, and if the prison staff would be willing to provide that service for Nevada residents, that should reduce the fiscal note, so it may end up being a practical law that works.

Chairman Horne:

I do not see any Department of Corrections people here. A question is whether we mandate this action to Corrections. If Ways and Means grabs this bill and it gets on the floor, it could be amended there. We can reach out to the Director of Corrections and see if mandating it to them will cause some heartburn and fiscal problems, because they are making cuts, too. I do not necessarily like making such a substantive change on a bill when that Department is not here.

Assemblyman Hansen:

I agree. I believe the bill should go forward. I am just saying that may be one of the snags that may cause this to die again. Rather than have the bill die at this point, I say pass it as it is. However, perhaps at some point we could try to come up with a way to reduce the fiscal impact so it actually ends up being applied in the field.

Assemblyman Ohrenschall:

I think this bill is needed. I have tried to help constituents who have just been released from jail and do not have identification. Often they were born in another state and if they go online to try to obtain their birth certificates, it requires a credit card. These individuals do not have credit cards, so they are caught in a vicious cycle. I think this is a good bill.

Assemblyman Frierson:

I would not speak on behalf of any other group, in particular law enforcement. However, from a practical sense, it seems to me this measure is not only for the benefit of individuals being released from custody, but also for law enforcement's ability to identify people they encounter, and therefore reduce the amount of time such interactions take. I understand the six-month versus three-month concern and think that if some of these individuals had the wherewithal to plan three months or six months out, they may not be in the circumstance they are in today. With this bill, we are trying to give them the opportunity, once they are released and recognize the value of their freedom, to have the motivation to obtain identification and jobs. If the sponsor is okay with three months, I would certainly support that. I think this is an important first step. I think the other measure with prison providing identification and assisting the inmate is a great idea and a separate bill.

Assemblyman McArthur:

Yes. I have concerns about this bill, but if we are willing to go down to 90 days, I will support it.

Assemblyman Hammond:

I would like a point of clarification. Assemblywoman Flores, you talked about the savings that would occur if these former inmates take advantage of this system and also get a job upon release from prison. Can you remind me of the number you mentioned?

Assemblywoman Flores:

Currently, it costs approximately \$22,500 per year to house an inmate. If we divide that by the total fiscal note that was on the bill, all we would have to do is stop 12 to 13 people from reoffending in order to achieve those cost savings.

Chairman Horne:

I will entertain a motion on Assembly Bill 92.

ASSEMBLYMAN SHERWOOD MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 92.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairman Horne:

Will you handle your own bill on the floor, Ms. Flores? I will have Mr. Sherwood back you up. Our next bill is Assembly Bill 109.

Assembly Bill 109: Enacts the amendments to Article 9 of the Uniform Commercial Code. (BDR 8-330)

Dave Ziegler, Committee Policy Analyst:

Assembly Bill 109 is sponsored by Assemblyman Segerblom ([Exhibit E](#)). It was presented on March 7, 2011, by Uniform Law Commissioner Terry Care. The bill amends Article 9 of the Uniform Commercial Code (UCC). Article 9 of the UCC addresses secured transactions, which typically occur between business borrowers and lenders who take secured positions in collateral. The bill does a number of things:

- Enacts uniform amendments to definitions of terms in Article 9.
- Updates the provisions related to perfection of a security interest by obtaining control of electronic paper.
- Addresses the determination of the location of a business organized under the laws of the United States or a foreign country.
- Addresses the perfection of security interests when a new debtor is bound by an agreement entered into by another person, and the priority of such interests.
- Enacts uniform amendments to the “safe harbor” rules for determining whether a financing statement sufficiently provides the name of the debtor.
- Makes numerous other amendments to Article 9 of the UCC.

On the day of the hearing, Mr. Uffelman, representing the Nevada Bankers Association, proposed an amendment to the “safe harbor” provisions in section 19. On the same day, Scott Anderson, Deputy Secretary of State for Commercial Recordings, proposed an amendment in sections 22 and 23. The proposed amendments ([Exhibit F](#)) are attached to the work session document.

The amendment proposed by the Office of the Secretary of State changes the term “information statement” to “statement of claim,” which, according to the Secretary of State, is the terminology used at their office and used by people filing at their office.

The intent of the amendment proposed by the Nevada Bankers Association is that the lending community prefers this approach to identification because it is clearer, simpler, and less costly. The amendment better defines which lender

has a priority interest in the pledged collateral, and will reduce costs associated with filings.

Chairman Horne:

Thank you, Mr. Ziegler. Are there any questions on A.B. 109, and/or its amendments? If not, I will entertain a motion.

Assemblyman Frierson:

I do not know if I missed this. Was everyone okay with these proposed amendments? Was that something that the sponsors supported, or is it just standing alone?

Chairman Horne:

I recall that Commissioner Care and Mr. Segerblom were fine with the amendments. Commissioner, would you care to comment?

Terry Care, Private Citizen, Las Vegas, Nevada:

In essence, the amendment was drafted by the Uniform Law Commission. A discussion was held on section 19 about Alternative A and Alternative B. The business law section in this state wanted Alternative B, and that is what is currently in the bill. Further discussions were held between the lending community and the business law section during which everybody agreed on Alternative A, which is the "safe harbor" provision that would be amended into the bill.

Assemblyman Brooks:

When we heard this bill, there was discussion on section 19, subsection 3. It was also agreed that subsection 7 provides the name of the person, which is indicated on the driver's license or identification card that this state has issued. I do not see a change to the language stating "a state" instead of "this state." I think we agreed that if it said "a state," the bill did not require them to be a resident of Nevada.

Chairman Horne:

Commissioner Care, would you care to address that issue?

Terry Care:

Thank you, Mr. Chairman. Mr. Uffelman and I were talking about that earlier and I had to remind myself that during this session the committees are sticking to that 24-hour deadline on written amendments. Since the issue has arisen, however, Mr. Brooks' memory is correct. We would have no objection to the amendment proposed by the Nevada Bankers Association striking "this state"

and instead saying "any state" or the federal government, for that matter. It is fine with us.

Bill Uffelman, President and CEO, Nevada Bankers Association:

We fully support that, and counsel may want to look on page 29, line 21, where it says "this state" and there it should be amended in a parallel fashion, I believe, because it talks about rank order if there are multiple identification cards. I believe we raised that at the table when we were here before. Thank you for the opportunity to do this.

Chairman Horne:

Are there any further questions on Assembly Bill 109? [There were none.] I will entertain a motion.

ASSEMBLYMAN SEGERBLOM MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 109.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairman Horne:

The bill will be assigned to Mr. Segerblom. We are not going to hear Assembly Bill 111. It still has some issues. We will move to Assembly Bill 249.

[Assembly Bill 249](#): Makes various changes pertaining to certain court reporters.
(BDR 1-235)

Dave Ziegler, Committee Policy Analyst:

Assembly Bill 249 was sponsored by Speaker Ocegüera and presented on March 21, 2011, by the Speaker and intern Brittany Shipp ([Exhibit G](#)). The bill updates the statutes relating to court reporters in district courts and justice courts. With respect to the district courts, the bill requires a business appointed as the official court reporter to be licensed by the Certified Court Reporters' Board of Nevada, and provides that the court reporter is appointed by, rather than employed by, the court. In the rules establishing a court reporter's compensation, the bill specifies that the term "page" does not include a condensed transcript. The bill also requires a person who operates sound recording equipment to subscribe to an oath and to report any errors or malfunctions to the court.

In justice courts, the bill requires a sound recording to be preserved for eight years after the time for filing an appeal expires if the proceeding involves a

misdemeanor for which enhanced penalties may be imposed, a gross misdemeanor, or a felony.

For both district courts and justice courts, the bill provides that compensation for reporters' services must be deposited in advance with the reporter, rather than the clerk or deputy clerk.

On March 21, representatives of the Nevada Court Reporters Association suggested a further amendment to subsection 6 of section 4 to make it consistent with the rest of the bill. The Speaker has also requested two additional amendments. All the amendments are attached ([Exhibit H](#)). Mr. Chairman, with your permission I will defer to Committee Counsel on the amendments.

Nick Anthony, Committee Counsel:

As Mr. Ziegler indicated, there are three amendments attached as conceptual amendments. The first, in section 4, is meant to clarify that any compensation for a transcript must be paid to the actual reporter and not to the clerk of the court. The second amendment would add a new subsection to section 4 of the bill, which essentially would provide that, if a proceeding is recorded and a transcript is requested, a copy of the sound recording, if requested, must be provided with the transcript. Lastly, there is an amendment to section 7 of the bill, which would amend current law. The current law requires that a sound recording be preserved for up to at least 30 days after the time for filing an appeal. This amendment would extend that time to 1 year after the time for filing an appeal.

Chairman Horne:

Mr. Daly, those last two amendments were your suggestions. I understand you went through the Speaker's office and they were fine with those amendments. Are there any questions or concerns about A.B. 249 and/or its amendments? [There were none.] I will entertain a motion.

ASSEMBLYMAN DALY MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 249.

ASSEMBLYWOMAN DIAZ SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairman Horne:

This bill will be assigned to Speaker Ocegüera, and will be backed up on the floor by Mr. Daly. This concludes our work session for today. Are there any other business issues to come before the Committee? [There were none.] We are adjourned [at 9:44 a.m.].

RESPECTFULLY SUBMITTED:

Jean Bennett
Committee Secretary

APPROVED BY:

Assemblyman William C. Horne, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: March 23, 2011

Time of Meeting: 9:11 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 91	C	Dave Ziegler, Committee Policy Analyst	Work Session Document
A.B. 92	D	Dave Ziegler, Committee Policy Analyst	Work Session Document
A.B. 109	E	Dave Ziegler, Committee Policy Analyst	Work Session Document
A.B. 109	F	Dave Ziegler, Committee Policy Analyst	Amendment
A.B. 249	G	Dave Ziegler, Committee Policy Analyst	Work Session Document
A.B. 249	H	Dave Ziegler, Committee Policy Analyst	Amendment