

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-sixth Session
April 27, 2011**

The Senate Committee on Judiciary was called to order by Chair Valerie Wiener at 9:07 a.m. on Wednesday, April 27, 2011, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Valerie Wiener, Chair
Senator Allison Copening, Vice Chair
Senator Shirley A. Breeden
Senator Ruben J. Kihuen
Senator Mike McGinness
Senator Don Gustavson
Senator Michael Roberson

GUEST LEGISLATORS PRESENT:

Assemblyman Ira Hansen, Assembly District No. 32
Assemblyman Lynn D. Stewart, Assembly District No. 22

STAFF MEMBERS PRESENT:

Linda J. Eissmann, Policy Analyst
Bradley A. Wilkinson, Counsel
Kathleen Swain, Committee Secretary

OTHERS PRESENT:

Kevin Schiller, Social Services Director, Washoe County Department of Social Services
Jon Sasser, Statewide Advocacy Coordinator, Washoe Legal Services; Washoe County Senior Law Project; Legal Aid Center of Southern Nevada

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Sally Ramm, Aging and Disability Services Division, Department of Health and Human Services
Julie Butler, Records Bureau Chief, Records and Technology Division, Department of Public Safety
James J. Jackson, Nevada Judges of Limited Jurisdiction

CHAIR WIENER:

Senate Bill (S.B.) 86 has come back to us from the Assembly for a concur or not concur vote. The Assembly amendment added sponsors to this bill.

SENATE BILL 86 (1st Reprint): Revises provisions governing eminent domain.
(BDR 3-132)

SENATOR COPENING MOVED TO CONCUR WITH AMENDMENT NO. 109 TO S.B. 86.

SENATOR GUSTAVSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WIENER:

I will open the hearing on Assembly Bill (A.B.) 111.

ASSEMBLY BILL 111 (1st Reprint): Revises provisions relating to domestic relations. (BDR 11-197)

KEVIN SCHILLER (Social Services Director, Washoe County Department of Social Services):

Assembly Bill 111 came from the Legislative Committee on Child Welfare and Juvenile Justice and deals with domestic relations regarding adoptions. Section 1, subsection 1 of the bill authorizes adoptive parents to attend any hearings held by the court concerning the petition for adoption by telephone or in person. This is important because we are dependent on the receiving state's court system and agency to move forward in finalizing an out-of-state adoption.

When we place a child into protective custody, we move toward reunification. If we are unable to reunify the child, we consider relatives and other options,

many of which are in other states. When reunification is concluded, we typically place that child out of state through an Interstate Compact on Placement of Children. That placement is supervised by the child welfare agency in the receiving state. Because of economic developments in the last three years, other states finalize their adoptions first and ours second based on prioritization and financial issues. We have a federal review that holds us accountable for timeliness to permanency. When we determine adoption is the appropriate permanency goal and the court approves it, we try to accomplish it within 24 months.

The intent of this bill is to expedite permanency in the best interests of the children. There is a financial impact to the department and the State when a child stays in foster care and is not adopted. Additionally, the receiving state often charges us for costs to move forward with finalization.

There are approximately 118 children in our adoption unit in Washoe County. Approximately 60 of those children are placed out of state. Section 1 of this bill allows us to schedule the hearing and finalize the adoption as the sending state. It allows prospective adoptive parents to appear at court hearings by telephone. We were concerned about ensuring the people on the telephone were the adoptive parents. Section 1, subsection 3 of the bill satisfies that concern because it states the court will place the telephone call to a number specific to the child welfare agency in the receiving state of the prospective adoptive parents.

Section 4.5, subsections 2 and 3 of the bill address sibling visitation related to adoption. This is a follow-up to statute which requires us to include sibling visitation orders in the adoption decrees before we consent to adoptions at a hearing. We are trying to clean that up and include a notice provision to ensure those siblings and parties are noticed.

CHAIR WIENER:

I was privileged to vice chair that committee, and Senator Copening was a member. How many of the children you place out of state are placed with families?

MR. SCHILLER:

We place 85 percent to 90 percent with relatives.

CHAIR WIENER:

You mentioned a 24-month window. How would you see that shortened if this bill is passed?

MR. SCHILLER:

In Washoe County, we have met the 24-month time frame at certain times. For example, it typically takes approximately 12 months to 18 months, at a minimum, to free a child for adoption. We usually do that by terminating parental rights or working with counsel through the legal process for a relinquishment. If we place that child out of state, there is a six-month residency requirement, which we almost always meet. The 24-month time frame will be more approachable because we will get ready to finalize the adoption. I have a couple of cases where we have been waiting six months to ten months to get a court hearing, and the child is ready for permanency.

Older children who have been through the system and placed with relatives are waiting for permanency. This has an impact on the children, and we do not talk about that enough.

CHAIR WIENER:

If this bill passes and you have more control in Nevada, will you be more readily able to place older children?

MR. SCHILLER:

Yes. We are converging on the population as a whole to try to remove some of those barriers. Older children and children with significant special needs are the hardest to place. This bill would allow us to further expedite that process. Timing is critical in an out-of-state process. You are supportive of our effort to move children to permanency and have more flexibility.

JON SASSER (Statewide Advocacy Coordinator, Washoe Legal Services; Washoe County Senior Law Project; Legal Aid Center of Southern Nevada):

I played a role in section 4.5 of the bill regarding sibling visitation. District Judge Deborah E. Schumacher and Juvenile Court Master Buffy Dreiling, Family Division, Second Judicial District, brought an issue to the interim Legislative Committee on Child Welfare and Juvenile Justice. They indicated you passed a bill in the Seventh-fifth Session requiring a visitation order be included in the adoption decree. This would apply to a visitation order between siblings in the *Nevada Revised Statutes* (NRS) 432B process. For example, if there is a

subsequent adoption where one or more siblings are adopted and other siblings are not adopted into that same household, a visitation order would be included in the adoption decree.

The court had difficulty implementing that previous legislation because a procedure was not put into the statute. The Legislature said there would be a hearing within the adoption proceedings. The agency with all the information about the parties that should be noticed was not a party to the adoption proceeding. The judge pointed out there was no way to implement the Legislature's intent from the Seventy-fifth Session. I volunteered to work with the judge and Mr. Schilling over the interim to draft language that would solve the problem. We arrived at a solution that allows the court to include the sibling visitation order in its adoption order. The court would actually have the hearing during the NRS 432B proceeding, deal with the postadoption sibling visitation and notify all parties at that time. This process would satisfy everyone.

SENATOR BREEDEN:

I worked with seven children as a Court Appointed Special Advocate, and it took a couple of months to get the other family into the State. This is a good bill.

CHAIR WIENER:

I will close the hearing on A.B. 111.

SENATOR BREEDEN MOVED TO DO PASS A.B. 111.

SENATOR COPENING SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR WIENER:

I will open the hearing on A.B. 125.

[ASSEMBLY BILL 125 \(1st Reprint\)](#): Revises provisions concerning the reporting of crimes against older persons. (BDR 14-154)

ASSEMBLYMAN LYNN D. STEWART (Assembly District No. 22):

I am here to present A.B. 125 on behalf of the interim Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs. This committee went into detail on the needs of veterans, seniors and adults with special needs. We came up with a number of bills, and this is one of them. I am presenting this bill for Chair Kathy McClain, who has a long history of working with these people.

This bill concerns crimes against senior citizens. We have a registry for these crimes, but incidental crimes against senior citizens were being reported. For example, a senior citizen could have been with a group of people who were robbed, and he or she just happened to be in that group. The robbery was not perpetrated specifically against a senior citizen. This resulted in the registry and reporting of crimes being inaccurate regarding the data we needed.

The purpose of this bill is to require that crimes reported are those specifically targeted at senior citizens. This will make the data more specific and accurate. The bill requires more accurate reporting to include abuse, neglect and exploitation of senior citizens. Finally, the bill specifically defines those terms.

If this bill passes, we will have a more accurate record of crimes against senior citizens, and we will be able to determine ways to prevent these crimes from occurring.

CHAIR WIENER:

You used the word "target," which would relate to crimes specifically against senior citizens. There are enhancements that relate to crimes against seniors.

SALLY RAMM (Aging and Disability Services Division, Department of Health and Human Services):

This bill will make the statistics gathered by the federal repository more closely match the statistics required by the Aging and Disability Services Division. The federal repository has gathered a lot of statistics that do not match the needs of the agency.

CHAIR WIENER:

What do you do with the information when you get it?

MS. RAMM:

The *Nevada Revised Statutes* require the Aging and Disability Services Division to be the repository of statistics for elder abuse. There is no repository for national data on elder abuse. However, with the amendment to the Elder Justice Act in Congress, we expect some federal requirements. We provide the statistics to people who want them, and we use the data for planning and watching trends.

JULIE BUTLER (Records Bureau Chief, Records and Technology Division, Department of Public Safety):

I will read from my written testimony ([Exhibit C](#)).

CHAIR WIENER:

How have you collected or preserved data up to this point?

MS. BUTLER:

We publish an annual report of crime in Nevada and provide it to the Legislature and the public. We include in the annual report the statistics we captured. The statistics could be skewed because of the incidental crimes reported that are not necessarily targeted against elderly people, who are potentially vulnerable.

CHAIR WIENER:

I will close the hearing on A.B. 125.

SENATOR BREEDEN MOVED TO DO PASS A.B. 125.

SENATOR KIHUEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR WIENER:

I will open the hearing on A.B. 261.

[ASSEMBLY BILL 261 \(1st Reprint\)](#): Increases the monetary limit in actions for small claims adjudicated in a justice court. (BDR 6-1029)

ASSEMBLYMAN IRA HANSEN (Assembly District No. 32):

Assembly Bill 261 deals with small claims court, which is designed to provide people with a more streamlined, simple process without so many formal rules. It is the people's court, and attorneys typically do not come. Section 1 of the bill increases the limit from \$5,000 to \$7,500. Section 2 establishes a filing fee of \$125. The bill's purpose is to adjust for inflation and allow people an opportunity to have a simple resolution process without a lot of expense.

CHAIR WIENER:

As I reviewed the measure, I read the commentary from the counties. Did the counties bring their concerns to the Assembly? Churchill County commented the number of court actions will increase significantly, which would impact justice and district courts. Douglas County commented the limit should be raised to \$10,000. Washoe County said it will lose revenue because of the difference in filing fees for civil actions versus small claims filing fees.

ASSEMBLYMAN HANSEN:

There was no opposition. The judicial people had worked out those issues behind the scenes.

JAMES J. JACKSON (Nevada Judges of Limited Jurisdiction):

An increase in the filing fee for small claims between \$5,000 and \$7,500 was concurrent with the increase of the limit to \$7,500. We attempted to address concerns regarding a revenue difference for any increased filing numbers that occur.

Parties can bring justice court civil actions with a jurisdictional limit of \$10,000. Anything over \$10,000 must go to district court. In our discussions with Assemblyman Hansen and with his agreement, a distinction remains between small claims and formal civil justice court actions. That is why we maintained that slight difference. This increase puts us in line with most surrounding states. Some states are higher, but we have a formal justice court civil action with formal rules of discovery, where juries can be seated, and evidentiary rules are more stringent than small claims.

With respect to your comments, Madame Chair, no one approached the judiciary about that.

CHAIR WIENER:

I will read the comments into the record from the "Local Government Fiscal Note" ([Exhibit D](#)). Churchill County commented:

... it is possible that the number of court actions will increase significantly given the current economy. Since the costs of mounting a case in justice court is less than what might be incurred in district court, this may encourage the proliferation of filings.

Clark County commented:

This bill has minimal impact to justice courts as it may shift some cases from formal civil filings to small claims. However, this bill will have an impact on the Law Library's revenues. Every time the jurisdictional court filings increase, fees collected by the District Court for the Law Library generally decline. Approx. 62% of Law Librar [sic] patrons are litigants in justice courts. The Law Library assists litigants by helping them prepare for court.

Douglas County said the limit should be increased to \$10,000. Washoe County commented, "Revenue loss will occur due to difference in filing fees for civil filing fees versus small claims filing fees;"

There is diverse input. The law library was a different aspect of it as well.

ASSEMBLYMAN HANSEN:

We did not talk to the law library. It seems odd it would say it will lose filing fees because we are increasing the amount for filing fees.

CHAIR WIENER:

How does that work from court to court? Does the money go into a central account? If you go to a court of limited jurisdiction, does the money go into the justice court?

MR. JACKSON:

I am confused by that because the remaining issue is if a party has a claim worth \$8,000, for example, he or she must make a jurisdictional decision. This was part of the discussion we had with Assemblyman Hansen. Do people give up potentially \$500 worth of damages so they can go to small claims where it is streamlined? Lawyers are usually not involved in small claims court. The rules of evidence are relaxed, and the process is less formal. Would people try to

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create additional damages so they can file civil justice court actions? I do not see how this will impact the district courts. No one has expressed concern with this bill.

CHAIR WIENER:

I will close the hearing on A.B. 261.

SENATOR ROBERSON MOVED TO DO PASS A.B. 261.

SENATOR GUSTAVSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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SENATOR MCGINNESS:

I will check with Churchill County to make sure it is okay with this information.

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CHAIR WIENER:

I will open the hearing for public comment. There being nothing further to come before the Committee, we are adjourned at 9:38 a.m.

RESPECTFULLY SUBMITTED:

Kathleen Swain,
Committee Secretary

APPROVED BY:

Senator Valerie Wiener, Chair

DATE: _____

| EXHIBITS | | | |
|-----------------|----------------|-------------------------|---------------------------------|
| Bill | Exhibit | Witness / Agency | Description |
| | A | | Agenda |
| | B | | Attendance Roster |
| A.B. 125 | C | Julie Butler | Written Testimony |
| A.B. 261 | D | Senator Valerie Wiener | Local Government Fiscal Note |