

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Eighth Session
May 13, 2015**

The Committee on Judiciary was called to order by Chairman Ira Hansen at 9 a.m. on Wednesday, May 13, 2015, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 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/App/NELIS/REL/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Ira Hansen, Chairman
Assemblyman Erven T. Nelson, Vice Chairman
Assemblyman Elliot T. Anderson
Assemblyman Nelson Araujo
Assemblywoman Olivia Diaz
Assemblywoman Michele Fiore
Assemblyman David M. Gardner
Assemblyman Brent A. Jones
Assemblyman James Ohrenschall
Assemblyman P.K. O'Neill
Assemblywoman Victoria Seaman
Assemblyman Tyrone Thompson
Assemblyman Glenn E. Trowbridge

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

Minutes ID: 1134



STAFF MEMBERS PRESENT:

Diane Thornton, Committee Policy Analyst
Brad Wilkinson, Committee Counsel
Nancy Davis, Committee Secretary
Jamie Tierney, Committee Assistant

OTHERS PRESENT:

None

Chairman Hansen:

[Roll was taken. Committee rules and protocol were reviewed.] We are not going to hear Senate Bill 17 (1st Reprint) or Senate Bill 138 (1st Reprint) today.

Senate Bill 17 (1st Reprint): Authorizes a deputy director of the Department of Corrections to accept part-time employment as an instructor at an institution of higher education. (BDR 16-339)

Senate Bill 138 (1st Reprint): Revises provisions governing the forfeiture of property. (BDR 14-222)

We will start the work session with Senate Bill 39 (1st Reprint).

Senate Bill 39 (1st Reprint): Revises provisions relating to business associations. (BDR 7-450)

Diane Thornton, Committee Policy Analyst:

Senate Bill 39 (1st Reprint) was heard in this Committee on May 6, 2015, on behalf of the Secretary of State. The bill requires that a state business license contain a business identification number assigned by the Secretary of State and that the Secretary of State assign an identification number, in certain instances. [Continued to read from work session document ([Exhibit C](#)).]

Chairman Hansen:

I will entertain a motion.

ASSEMBLYMAN THOMPSON MADE A MOTION TO DO PASS
SENATE BILL 39 (1ST REPRINT).

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMAN FIORE WAS ABSENT
FOR THE VOTE.)

I will assign the floor statement to Assemblyman Ohrenschall. Next we will
hear Senate Bill 54 (1st Reprint).

**Senate Bill 54 (1st Reprint): Revises provisions governing the commitment and
release of incompetent criminal defendants. (BDR 14-334)**

Diane Thornton, Committee Policy Analyst:

This bill was sponsored by the Committee on Judiciary on behalf of the
Division of Public and Behavioral Health, Department of Health and
Human Services, and was heard in this Committee on April 29, 2015. The bill
provides that for all category A felonies, except for murder or sexual assault,
and for certain category B felonies, if a comprehensive risk assessment
conducted by the Division of Public and Behavioral Health indicates that the
offender does not require the level of security provided by a forensic facility,
a prosecuting attorney's request for a hearing on whether the offender should
be committed to the custody of the Division must be dismissed. The bill also
removes the requirement that a court find by clear and convincing evidence that
a person no longer has a mental disorder to be eligible for discharge from
conditional release. [Work session document ([Exhibit D](#)).]

Chairman Hansen:

I will entertain a motion.

ASSEMBLYWOMAN SEAMAN MADE A MOTION TO DO PASS
SENATE BILL 54 (1ST REPRINT).

ASSEMBLYMAN TROWBRIDGE SECONDED THE MOTION.

Assemblyman Gardner:

I will be voting this out of Committee, but I want to reserve my right to change
my vote on the floor. I have some concerns with taking away the authority of
the court.

Chairman Hansen:

Is there any further discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYWOMAN FIORE WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Diaz. Next we will hear Senate Bill 129 (1st Reprint).

Senate Bill 129 (1st Reprint): Limits civil liability of certain persons for injuries or death resulting from certain equine activities. (BDR 3-611)

Diane Thornton, Committee Policy Analyst:

This bill is sponsored by Senator Goicoechea and Assemblyman Ellison, and was heard in this Committee on April 24, 2015. The bill provides immunity from civil liability to a sponsor, veterinarian, equine professional, or any other person for the injury or death of a participant resulting from risks inherent in certain equine activities. The bill also specifies both the behavior necessary on the part of the participant in an equine activity and instances in which a sponsor or other equine professional is not immune from civil liability, including if a person fails to act responsibly while conducting an equine activity or maintaining an equine. [Work session document ([Exhibit E](#)).]

Chairman Hansen:

I will entertain a motion.

ASSEMBLYMAN JONES MADE A MOTION TO DO PASS
SENATE BILL 129 (1ST REPRINT).

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMAN FIORE WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblyman Jones. Next we will hear Senate Bill 174 (1st Reprint).

Senate Bill 174 (1st Reprint): Revises provisions governing eligibility to be a member of the executive board or an officer of a unit-owners' association. (BDR 10-617)

Diane Thornton, Committee Policy Analyst:

Senate Bill 174 (1st Reprint) is sponsored by Senator Hammond and was heard in this Committee on April 28, 2015. The bill excludes a person, other than one appointed by a declarant, from being a member of the executive board of a unit-owners' association if the person resides with, is married to, is

a domestic partner of, or is related within the third degree of consanguinity to a board member. [Continued to read from work session document ([Exhibit F](#)).] There is an amendment to the bill that Senator Hammond has proposed. The amendment makes changes to the membership of the executive board that are similar to the provision in Assembly Bill 238. There is a mock-up amendment included with the work session document. Section 1, subsection 9 adds the word "candidate," and section 1, subsection 11 adds the qualifications for who is eligible. Subsection 12 provides for who is not eligible to be a candidate or member of the executive board.

Chairman Hansen:

I will entertain a motion on S.B. 174 (R1).

ASSEMBLYWOMAN SEAMAN MOVED TO AMEND AND DO PASS
SENATE BILL 174 (1ST REPRINT).

ASSEMBLYMAN GARDNER SECONDED THE MOTION.

Assemblyman Elliot T. Anderson:

I would like to discuss page 4, lines 1 and 2 of the mock-up amendment. I think that means that someone has to have a contract with the executive board of the association. I am having trouble understanding what "stands to gain" means. I understand that if someone stands to gain any personal profit or compensation of any kind from a matter before the executive board, that means there must have been some sort of contract. I do not know how else you could determine if someone stands to gain anything. I wanted to put that on the record regarding intent.

Chairman Hansen:

Good, your point is noted.

Assemblywoman Diaz:

Mr. Chairman, I would like to clarify that the motion is to amend and do pass with Senator Hammond's amendment.

Chairman Hansen:

That is correct.

THE MOTION PASSED. (ASSEMBLYWOMAN FIORE WAS ABSENT
FOR THE VOTE.

I will assign the floor statement to Assemblyman Nelson. We will now hear Senate Bill 176 (1st Reprint).

Senate Bill 176 (1st Reprint): Revises provisions governing certain dangerous or deadly weapons. (BDR 15-87)

Diane Thornton, Committee Policy Analyst:

Senate Bill 176 (1st Reprint) is sponsored by Senators Settelmeyer, Gustavson, and Goicoechea and was heard in this Committee on April 22, 2105. The bill repeals provisions authorizing a sheriff to issue a permit for the manufacture or sale of switchblade knives. The bill also removes integrated belt buckle and switchblade knives from the list of weapons that may not legally be manufactured, imported, sold, given, lent, or possessed in Nevada. [Continued to read from work session document ([Exhibit G](#)).]

Chairman Hansen:

I will entertain a motion.

ASSEMBLYMAN O'NEILL MADE A MOTION TO DO PASS
SENATE BILL 176 (1ST REPRINT).

ASSEMBLYMAN GARDNER SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMAN FIORE WAS ABSENT
FOR THE VOTE.)

I will assign the floor statement to Assemblyman O'Neill. This meeting is now in recess [at 9:11 a.m.].

We will now reconvene [at 9:29 a.m.]. The next bill we are going to hear is Senate Bill 53 (1st Reprint).

Senate Bill 53 (1st Reprint): Revises provisions relating to certain postconviction petitions for writs of habeas corpus. (BDR 3-156)

Diane Thornton, Committee Policy Analyst:

Senate Bill 53 (1st Reprint) is sponsored on behalf of the Attorney General, and was heard in this Committee on May 1, 2015. The bill requires a person convicted of a crime who claims that his or her time served has been computed incorrectly to exhaust all administrative remedies available to resolve the matter prior to filing a petition for a writ of habeas corpus with the court. It also requires the Department of Corrections to develop an expedited process for resolving a challenge brought by a convicted person regarding the computation if the challenge is brought within 180 days before that person's projected discharge date. A court is required to dismiss such a petition if it determines that a petitioner has filed without having exhausted all administrative remedies.

These provisions do not apply to a petition filed on or before the effective date of the bill. [Work session document ([Exhibit H](#)).]

Chairman Hansen:

I will entertain a motion on S.B. 53 (R1).

ASSEMBLYMAN GARDNER MADE A MOTION TO DO PASS
SENATE BILL 53 (1ST REPRINT).

ASSEMBLYMAN O'NEILL SECONDED THE MOTION.

Assemblyman Elliot T. Anderson:

I have questions about the tolling provisions in *Nevada Revised Statutes* 34.726 which state that the statute of limitations applies only to habeas petitions challenging the validity of a judgment or a sentence. Because the type of habeas petition contemplated in this bill is for challenges to the computation of time credits, I do not think there is a statute of limitations, and therefore I do not believe that a tolling provision is necessary for this bill.

Chairman Hansen:

At this time I will ask Assemblyman Gardner to withdraw his motion and Assemblyman O'Neill to withdraw his second [they nodded assent], and we will come back to this bill after that question is addressed.

We will now hear Senate Bill 58 (1st Reprint).

Senate Bill 58 (1st Reprint): Revises provisions governing the release of information relating to children within the jurisdiction of the juvenile court. (BDR 5-490)

Diane Thornton, Committee Policy Analyst:

Senate Bill 58 (1st Reprint) is sponsored on behalf of the Nevada Supreme Court and was heard in this Committee on May 7, 2015. This bill provides that a juvenile justice or care agency may share information concerning a child within the jurisdiction of the juvenile court under certain circumstances. The bill also provides that the juvenile justice information is confidential. An agency's denial of an information request must be provided to the requester within five business days. [Continued to read from work session document ([Exhibit I](#)).]

Chairman Hansen:

I will entertain a motion on S.B. 58 (R1).

ASSEMBLYMAN GARDNER MOVED TO AMEND AND DO PASS
SENATE BILL 58 (1ST REPRINT).

ASSEMBLYMAN O'NEILL SECONDED THE MOTION.

Assemblyman Elliot T. Anderson:

I am going to be voting yes on this measure, but I want to express some reservations with the language. Previously I mentioned that I do not like how broad the language is for a school district's dissemination of information. We were told that there would be a memorandum of understanding to take care of my concern. I am not a big fan of legislating by trust. I like to have things written within the bill because we do not have the capacity to monitor how this will proceed. We are not a full-time Legislature; we cannot always follow all the laws as they progress and how they are implemented. I would have preferred having specific language that narrowed it a little more. I would encourage everyone on this Committee going forward to remember that. It is hard to monitor what happens during the interim.

Assemblyman Ohrenschall:

I appreciate the need for this data. Many programs are having very good results with the kids in delinquency courts. I think that is very important, and I am glad this bill is addressing that. My concern is similar to Assemblyman Anderson's. Regarding the language that states that a juvenile justice agency and a school district can enter into an agreement, I would be concerned that a school district can get the information from the juvenile justice agency. I would not want to see kids either not be allowed to go to a certain school or be first in line to be sent to a behavioral school for an infraction that occurred at school and is not under the juvenile justice agency's jurisdiction. I am a little concerned about that. I think the good in this bill far outweighs my concerns, so I will be voting for it.

Chairman Hansen:

Is there any further discussion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblyman Thompson. We will now go back to Senate Bill 53 (1st Reprint).

Senate Bill 53 (1st Reprint): Revises provisions relating to certain postconviction petitions for writs of habeas corpus. (BDR 3-156)

Brad Wilkinson has done some research on Assemblyman Anderson's concerns.

Brad Wilkinson, Committee Counsel:

I agree with Assemblyman Anderson's understanding of the statute that the time limitation in *Nevada Revised Statutes* 34.726 would not apply to this kind of petition.

Chairman Hansen:

Does that mean we need a conceptual amendment at this time?

Brad Wilkinson:

No, it does not.

Chairman Hansen:

Then we will go forward with the voting on S.B. 53 (R1).

ASSEMBLYWOMAN SEAMAN MOVED TO DO PASS
SENATE BILL 53 (1ST REPRINT).

ASSEMBLYMAN GARDNER SECONDED THE MOTION.

Assemblyman Thompson:

I am concerned with the fact that the Department of Corrections was not present during the hearing. I do not see any letters of support from them either. This deals with them and administrative remedies. I will vote this out of Committee, but I do have concerns and reserve my right to change my vote on the floor.

Assemblyman Ohrenschall:

I will be voting no on this. I know that everyone has worked hard to clarify issues, and I understand how burdensome these inmate writs can be to the Office of the Attorney General, but as I understand it, the ones that lack merit are routinely sent back without a lot of resources being spent on them. I am concerned about putting an additional obstacle in front of someone who may have a meritorious claim and may not be getting his grievances redressed adequately and putting an additional block between him and our court system.

Chairman Hansen:

Is there any further discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMAN OHRENSCHALL
VOTED NO.)

I will assign the floor statement to Assemblywoman Seaman. I am going to postpone Senate Bill 192 (1st Reprint) to allow another day or two to work out last-minute details.

Senate Bill 192 (1st Reprint): Revises provisions relating to sexual conduct between certain persons. (BDR 14-731)

[Two other bills, Senate Bill 175 (1st Reprint) and Senate Bill 245 (1st Reprint), were agendized but not discussed.]

Senate Bill 175 (1st Reprint): Makes various changes relating to public safety. (BDR 15-515)

Senate Bill 245 (1st Reprint): Revises provisions concerning drivers of vehicles involved in accidents resulting in bodily injury to or the death of a person. (BDR 43-558)

I will now close the work session and open up public comment. Seeing no one here for public comment, this meeting is adjourned [at 9:40 a.m.].

RESPECTFULLY SUBMITTED:

Nancy Davis
Committee Secretary

APPROVED BY:

Assemblyman Ira Hansen, Chairman

DATE: _____

EXHIBITS

Committee Name: Assembly Committee on Judiciary

Date: May 13, 2015

Time of Meeting: 9 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 39 (R1)	C	Diane Thornton, Committee Policy Analyst	Work Session Document
S.B. 54 (R1)	D	Diane Thornton, Committee Policy Analyst	Work Session Document
S.B. 129 (R1)	E	Diane Thornton, Committee Policy Analyst	Work Session Document
S.B. 174 (R1)	F	Diane Thornton, Committee Policy Analyst	Work Session Document
S.B. 176 (R1)	G	Diane Thornton, Committee Policy Analyst	Work Session Document
S.B. 53 (R1)	H	Diane Thornton, Committee Policy Analyst	Work Session Document
S.B. 58 (R1)	I	Diane Thornton, Committee Policy Analyst	Work Session Document