

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

**Seventy-Eighth Session
March 2, 2015**

The Committee on Judiciary was called to order by Chairman Ira Hansen at 8:59 a.m. on Monday, March 2, 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 Jim Wheeler

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman John Ellison, Assembly District No. 33

Minutes ID: 327



STAFF MEMBERS PRESENT:

Diane Thornton, Committee Policy Analyst
Linda Whimple, Committee Secretary
Jamie Tierney, Committee Assistant

OTHERS PRESENT:

John T. Jones, Jr., representing Nevada District Attorneys Association
Mason G. Simons, Justice of the Peace, Elko Justice Court
Brian E. Boatman, Justice of the Peace, Eastline Justice Court; Municipal
Court Judge, West Wendover Municipal Court
Regan Comis, representing Nevada Judges of Limited Jurisdiction
Alex Velto, Private Citizen, Las Vegas, Nevada
Jenny Reese, representing Nevada Land Title Association; Reno/Sparks
Association of Realtors
Joshua Rivera, Private Citizen, Las Vegas, Nevada
Jonathan Solares, Private Citizen, Las Vegas, Nevada
Jaclyn Honig, Private Citizen, Las Vegas, Nevada

Chairman Hansen:

[Roll was called and protocol was explained.] Brad Wilkinson, our legal representative, will not be with us for the bulk of this week as he is busy drafting bills that we are running behind on.

We have pulled two bills from the work session: Assembly Bill 11 will not be heard because we did not properly notify everyone, and Assembly Bill 138 was pulled because the court came up with an amendment. We are going to delay it until everyone has a chance to review it. We will start with Assembly Bill 13.

Assembly Bill 13: Revises provisions governing support enforcement to ensure compliance with federal law. (BDR 11-373)

Diane Thornton, Committee Policy Analyst:

Our first bill for consideration is Assembly Bill 13, which revises provisions governing support enforcement to ensure compliance with federal law. It was heard in Committee on February 18, 2015. This bill amends language in *Nevada Revised Statutes* to match the federal Uniform Interstate Family Support Act, which allows states to work together in their collection of court-ordered child support. [Ms. Thornton continued to read from the work session document ([Exhibit C](#)).]

Chairman Hansen:

I will entertain a motion for A.B. 13 with the recommended amendments.

ASSEMBLYMAN THOMPSON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 13.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

Is there any discussion from the Committee?

Assemblyman Ohrenschall:

I want to refresh everyone's memory. We had testimony from—I think it was the deputy director—as to how important this bill is and how much funding we might lose if it does not pass. Also, the Uniform Law Commission has been very active in trying to make sure this change gets through the State Legislature so there will not be any adverse consequences. Thank you for moving it so quickly, and I hope we may look favorably on this measure.

Chairman Hansen:

Is there further discussion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

Assemblywoman Diaz will handle the floor statement on the bill. We will hear Assembly Bill 92 next.

Assembly Bill 92: Makes various changes relating to parentage. (BDR 11-301)

Diane Thornton, Committee Policy Analyst:

Assembly Bill 92 makes various changes relating to parentage. This was heard in Committee on February 24, 2015, and sponsored by Assemblywoman Benitez-Thompson. This bill requires the State Registrar of Vital Statistics to prepare and file a birth certificate for a child which shows the intended parent or parents upon the receipt of a court order issued by a district court pursuant to *Nevada Revised Statutes* 126.720. There is an amendment which is proposed by Kim Surratt. The intent of the amendment is to prevent California orders from coming into Nevada and dictating who is the parent of a child for the original issuance of a birth certificate in Nevada ([Exhibit D](#)).

Chairman Hansen:

This amendment is considered a friendly amendment, and I believe that Assemblywoman Benitez-Thompson was in favor of it. I will entertain a motion at this time on A.B. 92.

ASSEMBLYWOMAN SEAMAN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 92.

ASSEMBLYMAN GARDNER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assemblyman Thompson will handle the floor statement. The next bill is
Assembly Bill 110.

Assembly Bill 110: Revises provisions governing court sanctions for certain
conduct in civil actions. (BDR 2-648)

Diane Thornton, Committee Policy Analyst:

Assembly Bill 110 revises provisions governing court sanctions for certain
conduct in civil actions. It was heard in Committee on February 17, 2015, and
sponsored by Assemblyman Kirner. This bill provides that a court require a
person who is not represented by an attorney to pay additional costs, expenses,
and attorney fees reasonably incurred by an opposing party as a result of the
person's conduct if the court finds that the person has filed, maintained, or
defended a civil action or proceeding in any court in the state that is not well
grounded in fact, and unreasonably and vexatiously extended a civil action or
proceeding. There are no proposed amendments for this measure ([Exhibit E](#)).

Chairman Hansen:

I met with Assemblyman Anderson this morning and raised some concerns,
especially regarding Rule 11, officially called the Federal Rule of Civil
Procedure 11. I met with our legal counsel about it and talked with the bill
sponsor, both of whom said that at this point they think the bill could go
forward, and if there were concerns it could be amended on the Senate side.
At this time I will entertain a motion to do pass Assembly Bill 110.

ASSEMBLYMAN GARDNER MADE A MOTION TO DO PASS
ASSEMBLY BILL 110.

ASSEMBLYMAN O'NEILL SECONDED THE MOTION.

Is there further discussion?

Assemblyman Elliot T. Anderson:

I spoke with Assemblyman Kirner and suggested changes on this measure.
My understanding was that he was trying to go after an attorney who was
abusing the court system and did not go under the existing law that we have on

the subject because he was representing himself and thereby not qualifying as an attorney. I suggested that we could say "an attorney licensed in any state" because there is no reason that attorneys should not have the book thrown at them since they know better. But as it relates to adding parties into this, they are already included under Rule 11, and the court has discretion to sanction them. I do not think that any person here who is not an attorney knows what vexatious or well-grounded in law means, so to me it just seems a little spiteful towards unrepresented parties who do not have the benefit of a legal education.

I have to vote no on this measure, not because I believe that the court system should be abused, but I think the court already has rules on this and that is what the courts determined. I have concerns about the constitutionality of the Legislature telling the court what it should do for its internal processes and procedures. I have not identified any enumerated power of the Legislature in the *Nevada Constitution* that allows for the Legislature to determine court rules. For those reasons, I will be voting no.

Chairman Hansen:

Is there further discussion?

Assemblyman Ohrenschall:

I think Assemblyman Anderson said it very well. I think whenever we legislate in this area, there is a fine balance between trying to make sure that we do not allow vexatious litigants to clog our court system and overburden our judges, government attorneys, and private attorneys; however, I do think there are adequate remedies right now for that vexatious litigant who is representing himself in proper person. I am worried that this could have a chilling effect, and the people will be afraid to fight for their rights in proper person.

In southern Nevada, we have self-help centers at the Regional Justice Center and at the Family Courts and Services Center. I do not have the figures, but I believe it is tens of thousands of people who have to represent themselves in proper person because they cannot afford an attorney. I have tremendous respect for the sponsor of this bill, but I am going to have to vote no.

Assemblyman Gardner:

I would like to go on the record and say that I think this is a good bill. I do not think the current way is adequate as has been shown in several cases that we have talked about in this very committee. I also think that as far as constitutionality, I do not see the same problem as Assemblyman Anderson. I think it is a good bill, I think it should pass, and I will be supporting it.

Assemblywoman Fiore:

I am going to ditto Assemblyman Gardner.

Chairman Hansen:

I checked on some of these questions. I met with our legal representative on Rule 11 to see if, in fact, that had been considered, and that it had been thoroughly vetted by the bill drafters. The constitutionality question was also thoroughly examined to make sure that we are in compliance with the state *Constitution*. Our own Legislative Counsel Bureau felt this bill was entirely constitutional. The sponsor, as well as the people who are the proponents of this, were thoroughly aware of Rule 11 and felt it was entirely inadequate. That is really the genesis for this bill.

THE MOTION PASSED. (ASSEMBLYMEN ELLIOT T. ANDERSON,
ARAUJO, DIAZ, OHRENSCHALL, AND THOMPSON VOTED NO.)

Assemblywoman Fiore will handle the floor statement. Next is Assembly Bill 113.

Assembly Bill 113: Revises provisions governing the sealing of juvenile records.
(BDR 5-444)

Diane Thornton, Committee Policy Analyst:

Assembly Bill 113 revises provisions governing the sealing of juvenile records. It was heard in Committee on February 19, 2015. This measure provides guidelines for sealing juvenile records. If a child is under 21 years of age, the child, probation, or parole officer may petition the juvenile court for an order sealing all records relating to the child. [Ms. Thornton continued to read from the work session document ([Exhibit F](#)).]

Chairman Hansen:

As I understand it, both amendments are considered friendly amendments, is that correct?

Diane Thornton:

Yes.

Assemblyman Elliot T. Anderson:

After meeting and talking this morning with Mr. Jones, we still had some questions about it. Is there a possibility of giving us a couple more days to try to work with the bill sponsor on an issue?

Chairman Hansen:

Yes, absolutely. We will hold that bill until the next work session. Next is Assembly Bill 114.

Assembly Bill 114: Revises provisions governing restitution. (BDR 14-560)

Diane Thornton, Committee Policy Analyst:

Assembly Bill 114 revises provisions governing restitution. This bill was brought to us on behalf of the Advisory Committee on the Administration of Justice. It was heard in Committee on February 24, 2015. This bill provides that a judgment requiring a defendant in a criminal action to pay restitution does not expire until the judgment is satisfied and allows an independent action to enforce a judgment to be commenced at any time. [Ms. Thornton continued to read from the work session document ([Exhibit G](#)).]

Chairman Hansen:

Was that amendment accepted by everyone?

Diane Thornton:

Yes.

Chairman Hansen:

Assemblyman Anderson, before I go forward with it, did you have a chance to talk with Mr. Jones on this?

Assemblyman Elliot T. Anderson:

Yes, we did talk with Mr. Jones and discussed a conceptual amendment that would only apply his amendment provisions to an adult rather than a child. We think that if we tied it to an adult, we would be more comfortable with the amendment and so would the bill sponsor.

John T. Jones, Jr., representing Nevada District Attorneys Association:

I had an opportunity to speak with Assemblyman Anderson this morning. He asked whether or not I would have any questions making my proposed amendment applicable only to the parent or guardian of the child and not necessarily the child itself. I have no particular objections to that amendment if the Committee so desires to make that conceptual amendment.

Chairman Hansen:

That would not in any way harm the intent of your original amendment?

John Jones:

No, I do not believe so.

Chairman Hansen:

I will take a motion for Assembly Bill 114 as amended with the conceptual amendment that Mr. Jones has just now approved.

ASSEMBLYMAN ELLIOT T. ANDERSON MOVED TO AMEND AND
DO PASS ASSEMBLY BILL 114.

ASSEMBLYWOMAN DIAZ SECONDED THE MOTION.

Is there any further discussion?

Assemblyman Ohrenschall:

I appreciate all of the hard work and the district attorney's willingness to negotiate on this. I am going to vote yes here in the Committee, but I want a little more information before the floor, so I am going to reserve my right to change my vote on the floor.

Chairman Hansen:

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

THE MOTION PASSED UNANIMOUSLY.

Assemblyman Araujo will handle the floor statement. The last bill in the work session today is Assembly Bill 132.

**Assembly Bill 132: Revises provisions relating to displaced homemakers.
(BDR 2-546)**

Diane Thornton, Committee Policy Analyst:

Assembly Bill 132 revises provisions relating to displaced homemakers. It was heard in Committee on February 24, 2015. This was a recommendation brought to us by the Sunset Subcommittee of the Legislative Commission. This bill requires a person who terminates a domestic partnership in a district court to pay a fee of \$20 to the county clerk for use by the Director of the Department of Employment, Training, and Rehabilitation to administer the provisions of law relating to the education and counseling of displaced homemakers. [Ms. Thornton continued to read from the work session document ([Exhibit H](#)).]

There is one proposed amendment. This was discussed with Assemblywoman Bustamante Adams, as she was the Chair of the Sunset Subcommittee. Assemblyman Hansen and Assemblywoman Bustamante Adams discussed an amendment that would increase the fee from \$20 to \$30 on the

commencement of any action for divorce or termination of a domestic partnership. This increase is based on using the Consumer Price Index.

Chairman Hansen:

I will entertain a motion on Assembly Bill 132 as amended.

ASSEMBLYMAN GARDNER MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 132.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assemblyman Nelson will handle the floor statement.

That will close out our work session at this time. We will now go to the hearing portion and hear Assembly Bill 160, which makes various changes relating to the courts. Good morning, Assemblyman Ellison, welcome to Judiciary.

Assembly Bill 160: Makes various changes relating to courts. (BDR 1-453)

Assemblyman John Ellison, Assembly District No. 33:

Assembly Bill 160 provides that the justice courts and municipal courts will be held in various locations for certain circumstances. Today, we have a friendly amendment that we will speak about at the end. I have Judge Mason Simons from Elko and Judge Brian Boatman from Wendover here.

Mason G. Simons, Justice of the Peace, Elko Justice Court:

Thank you for this opportunity to speak to you in favor of the passage of A.B. 160, which is a bill that would give increased discretion to Nevada's limited jurisdiction courts regarding the venue in which they may convene their courts. I presently serve as the Justice of the Peace in the Elko Township Justice Court, and I also serve concurrently as the Municipal Judge for the City of Elko Municipal Court. It is a pleasure to appear before you today to speak regarding this important bill.

I would like to take a moment to give you a bit of background on what motivated the submission of this bill request, discuss how we believe that this bill would provide additional options and discretion to the courts—discretion that will help save money and time and make the court processes more efficient—and then answer any questions that you may have about this bill.

Elko County is the fourth-largest county in geographic area in the continental United States. The county encompasses about 17,203 square miles. The City of Elko is the county seat. West Wendover, which is positioned on the Utah and Nevada border, is a 110-mile drive one way from Elko. [Judge Simons continued to read from prepared testimony ([Exhibit I](#)).]

Some years ago, the decision was made in Elko County to tear down the old, antiquated jail facility that had historically been attached to our county courthouse, and to build a new, modern jail facility. This jail facility is the only jail in our county, so persons who are arrested in all of our various communities and outlying areas must be transported to the Elko County Jail. This is also the location in which persons who have been ordered arrested by the various courts on bench warrants would be customarily held until they can be seen by the judge who ordered their arrest.

The planners of this new jail facility had the foresight to include in their plans a completely functional and publicly accessible courtroom attached to the jail that could be used by various judges to see in-custody defendants. It allows for the court proceeding to remain a public proceeding that can be viewed by the defendants' families, friends, or other concerned citizens, but also allows for the required transport of defendants offsite to be reduced and for hearings to occur in a much safer and more secure environment. [Judge Simons continued to read from prepared testimony ([Exhibit I](#)).]

By allowing a Justice of the Peace in one of our outlying courts the discretion to hold court in the courtroom of one of the other Justices of the Peace in the same county, with the consent of the judge of that court, this would also allow additional flexibility that could save costs and expenses. For example, if the Justice of the Peace in Wendover or Jackpot knew that a particular trial or preliminary hearing would require expert testimony from the crime lab, and that videoconferencing was not available in his or her court, that judge could arrange for the proceeding to be conducted in one of the other justice court courtrooms that had that technology available. This would result in the county not having to fly in the witnesses to testify, at considerable expense, saving substantial costs from being incurred by the county. [Judge Simons continued to read from prepared testimony ([Exhibit I](#)).]

This morning I was provided with an amendment request to this particular bill that makes changes to section 1, subsection 3, paragraph (b), and subsection 4. It also makes a slight change to the wording in subsection 5. We concur with those amendments.

Chairman Hansen:

We have not seen the amendments, so we will need to get those to our Committee members before we can agree to them if they are friendly amendments. Are there any questions?

Assemblyman Ohrenschall:

If this bill passes with or without the amendment, do you think it is going to be harder on the defendants' attorneys in criminal proceedings to get to these remote jails to represent them? How do you see that working out?

Judge Simons:

In our particular jurisdiction, for example, most of the criminal defense bar happens to be based in Elko, so it would actually make it easier for them to get to the proceedings, not more difficult. I do not want to speak for them, but I think it is something that they would likely concur with.

Assemblyman Ohrenschall:

Have you spoken with the Elko public defenders? Do you know where they stand on this?

Judge Simons:

The public defender's office was involved in the discussions with this particular bill, and they are certainly in favor of the bill. There was other language that we had been kicking around at one time which is not included in this particular version of the bill that they wanted to see in this bill, but for practical reasons we ended up removing that particular section. They are in agreement with this bill as it is presently constituted.

Chairman Hansen:

Are there any further questions? [There were none.] So it is easier to move the judges than to move the prisoners; is that what the bill is really all about?

Judge Simons:

Basically, yes. It would be much easier to pick the judge up and move him in certain circumstances. We are not trying to say that is appropriate in all circumstances. It gives the discretion to the judge in an appropriate circumstance to come over to the jail and use that facility that has been built for this very purpose to conduct a proceeding. As NRS 1.050 is currently constituted, it would be a violation of the law for them to convene court anywhere but in their own township. We think of this as a commonsense, practical change that would give additional discretion to the court. It does not compel anything. It would give them some additional discretion about where they could convene the court.

Chairman Hansen:

I got a ticket years ago on the Mountain City Highway and, as I recall, I had to show up at the Wild Horse Reservoir Justice of the Peace. It was actually in the old restaurant up there. Is that gone now?

Judge Simons:

There used to be seven more justice courts in Elko and over the years the ones that were discretionary and not really required to exist by statute have been eliminated. That includes the ones that were in Mountain City, Jarbidge, and Montello. Over time, many of those outlying courts that were exceptionally small and did not have a lot of traffic through their court have been eliminated. Most of the ones that exist now are those where the justice court must exist by statute because it is an incorporated city. Most of the other ones have gone the way of the world.

Assemblywoman Diaz:

I apologize if I missed this in your testimony, but what would be these other places within the same county that two parties have consented to meet for their court proceedings? If it is not the jail and if it is not the court, what are we looking at?

Judge Simons:

If you look at the existing language in section 1, subsection 5 of the bill, it already provides this sort of language for the district courts. That was just an attempt to give justice courts the same level of discretion that would exist for a district court. I do not think you have been provided a copy of the friendly amendment that was offered by the legislative committee of the Nevada Judges of Limited Jurisdiction. I believe their proposed amendment also has a slight change in subsection 5 that would allow for a court—basically upon stipulation—to hold court anywhere a court is customarily held provided that the parties stipulate to it. It offers more discretion.

An example of that would be if there was a court proceeding that they wanted to hold somewhere for purposes of judicial training where the other judges could watch the proceeding take place. It would be somewhere other than the typical location where that proceeding might have been held. There would have been no provision for something like that to occur under the current way the statute is written. If the parties are stipulating and the court is in agreement with it, there should be broad discussion to hold that proceeding at any court facility provided the parties stipulate and agree to it.

Assemblyman Thompson:

I have a question about the new proposed locations. Will this reduce public participation or are these closed hearings anyway?

Judge Simons:

No. Going back to my comments, we are fairly unique in that we have a completely public and accessible courtroom. A member of the public can walk in off the street, go into the county jail, and to the left is the door to the courtroom. Any member of the public can walk in, participate, and watch the court proceeding from the gallery area. The proceedings are not closed at all; it is a publicly accessible courtroom. I think some places do not have anything like this. For whatever reason the planners of our particular jail thought that this might be advantageous and designed a publicly accessible courtroom where members of the public can walk in and observe a proceeding. It maintains the public access to the courtrooms, so there is no restriction of public access to the courtroom. It is not back in the recesses of the jail where people cannot have access to it.

Assemblyman O'Neill:

What procedures are you using for the witnesses or victims who have to travel? If court was normally held in Jackpot, they may have to be excused from work for only 15 to 30 minutes where they may or may not testify. Now they have to travel and take off from work for a whole day.

Judge Simons:

Typically, the proceedings we hold at the jail are not proceedings in which witnesses would testify. These proceedings would be arraignment proceedings, a first appearance on a felony case, or perhaps a contempt hearing of some kind on a bench warrant. We are not typically holding trials or preliminary hearings at the jail. In those cases, I think you are exactly right. There are going to be cases in which, by their nature, that particular proceeding needs to be held in the appropriate courtroom where people can get to the proceeding. In the time that I have been on the bench, I do not think I have ever held any type of evidentiary hearing in the jail that would require witnesses to appear. It is usually arraignments—first appearances where there typically are not many from the public who show up for these proceedings other than a family member. We are not requiring witnesses to show up, so that is not generally an issue.

Chairman Hansen:

As I understand it, both parties have to consent to that anyway. Is that correct? If it is disruptive and they live in Jackpot or Wells, and they have to go to Elko, would they have to agree to that?

Judge Simons:

Under the language, it would allow—with the approval of the court—the court to move a proceeding to the jail. The one that requires a stipulation of the parties is if you were going to hold it at some other location within the county that is not a typical location where court is held. It is basically our opinion that the jail is mutual ground where anyone who sends defendants to be housed at the jail should have the right to come to that jail and hold proceedings to address those particular defendants.

Ultimately, at the end of the day, it is going to make sure that these defendants are seen promptly and that they get their bench warrant resolved in a prompt fashion so they can be released from custody and go on with their lives. The longer there is a delay in the ability of the judge to get over to the jail and see someone, and if it requires that the judge transport them to Jackpot—which is nearly 250 miles round trip, perhaps in inclement weather—you can see why that could get delayed. That guy sits in jail, which potentially puts his job at risk, along with various other consequences that could come as a result of it. I think it is beneficial to everyone involved to allow that judge to pick up and go over there and address it in a timely manner.

Chairman Hansen:

Are there any further questions for Judge Simons at this time? [There were none.] Judge Boatman, would you like to add something to the testimony this morning?

Brian E. Boatman, Justice of the Peace, Eastline Justice Court; Municipal Court Judge, West Wendover Municipal Court:

Judge Simons has adequately described the proposed bill. I do not have much to add. If you have any questions, I would be happy to answer any questions as one of these outlying judges being 109 miles away from Elko.

Assemblyman O'Neill:

Do you teleconference your initial hearings now?

Judge Boatman:

Yes, we are one of the courts that have the audio and video equipment in place. We hold many of our in-custody hearings, such as arraignments, contempt hearings, et cetera, by videoconference. When witnesses or victims need to appear, we hold court in Wendover. But when it is one on one with the defendant and myself and he or she is in jail, we hold the videoconference at that time.

Assemblyman O'Neill:

Why will this provide a better service than the teleconferencing now?

Judge Boatman:

It really is not going to benefit my court a lot. I can address another issue that this would cover if you like. The videoconferencing affects Jackpot, Wells, and Carlin. We have the Internet bandwidth to support the videoconferencing. Would you like me to follow up with another issue that I would like to cover with this bill?

Chairman Hansen:

Yes, go ahead.

Judge Boatman:

Because of the great distance between the county seat of Elko, and the other outlying justice courts in Carlin, Wells, and Jackpot, the district attorney's office has been filing many of the outlying court cases in Elko. This happens primarily for two reasons: (1) it is much cheaper to fly expert witnesses to Elko than to get them to the outlying justice courts, and (2) the Elko Justice Court has state-of-the-art audio and video equipment that many of the outlying courts do not have. Judge Simons, the Elko Justice Court judge, was not elected to hear West Wendover, Wells, Carlin, or Jackpot cases. He was elected the judge for Elko; I was elected to serve the residents of West Wendover. Judge Simons is not from my community. He does not know the issues of West Wendover any more than I know the issues of Elko. We are two completely different communities; Elko mines and West Wendover gambles.

The amendment to NRS 1.050 as provided in A.B. 160 will allow for me to travel to Elko and convene court with Judge Simons' permission. This will lighten Judge Simons' caseload and allow me the opportunity to serve the community that I was elected to serve. [Judge Boatman submitted prepared testimony ([Exhibit J](#)).]

Currently, because of the distance between Wendover and Elko, the district attorney's office has been filing many of their cases in Elko even though the offenses happened in Wendover. This will allow the district attorney's office to file the case in West Wendover, and then I can travel to Elko to handle the case. That would allow the expert witnesses from the crime lab to travel to Elko as opposed to flying to Elko and then getting a rental car, at a considerable cost, to travel to Wendover. This would only inconvenience me as opposed to all of the attorneys in Elko and the various expert witnesses.

Chairman Hansen:

Are there any further questions for Judge Boatman at this time? [There were none.] We have a question from Diane Thornton who has a policy question on some of the amendments.

Diane Thornton, Committee Policy Analyst:

I see there are two amendments and, for clarification, I need to understand which ones are being considered. The one that is a little longer, two pages, is not being considered, correct? [Judge Simons nodded.] So the one we are considering is the one that says "Proposed amendment to A.B. 160 to correct oversight in section 1.3(b)." [Judge Simons nodded.] Thank you.

Chairman Hansen:

At this time, there are no further questions. Thank you for your testimony.

Regan Comis, representing Nevada Judges of Limited Jurisdiction:

I want to apologize to you for not having the amendments to you prior; we were just trying to work out some clarifications. In section 1, subsection 3, paragraph (b), we want to add the language "with the approval of the court" to allow that discretion to the court. Also, in section 4, again ending that sentence "with the approval of the court" regarding the municipal courts.

Finally, Judge Simons just pointed out to me that at the very end of section 5 of our amendment it states, ". . . in this State where a court is regularly held." In the bill you have before you the existing language states "district court." We want to strike the word "district" and just have it state "any court."

Assemblyman O'Neill:

Hopefully this will not be an issue that ever comes up, but when you need the court's approval from the local district where you are going, could personalities ever come into play where a justice of the peace of Elko does not like the justice of the peace of Wells, with all due respect.

Regan Comis:

I will pass that over to one of the justices of the peace.

Judge Simons:

We would be kidding ourselves if we said that personalities never come into play. Obviously, personalities always play into things, as they probably do here at the Legislature as well. We think that these changes are practical solutions that give more discretion. There will always be the potential for personality issues to cause some of this to hit the skids on occasion. We have a good

relationship among the current composition of our judicial bench in Elko, and we expect that to continue in the foreseeable future.

Assemblyman Nelson:

Is there any prejudice to the defendants arising from this bill?

Judge Simons:

I think just the opposite is true. The more a delay gets created in the system, where a judge cannot get over to take care of a particular defendant who is in custody, that is what creates the prejudice for the defendant. In fact, these particular changes will help us resolve issues more promptly and expeditiously. At the end of the day, this serves the defendants.

Chairman Hansen:

Are there any further questions at this time? [There were none.] Is there anyone else in the audience who would like to testify in favor of A.B. 160? [There was no one.] Is there anyone in Las Vegas who would like to testify in favor of A.B. 160? [There was no one.] Is there anyone who would like to testify in opposition to A.B. 160?

Alex Velto, Private Citizen, Las Vegas, Nevada:

I am with the University of Nevada, Las Vegas, Consolidated Students of the University of Nevada. This is not so much in opposition, as it is to bring awareness to the potential prejudice against someone who is waiting in prison on an alleged offense. It seems like there are a lot of subconscious associations that are made. If you are to hold a trial in a prison—regarding which the response to Assemblyman O'Neill's question would seem to be that there would not be full trials—there may still be some issues raised when you are having a court at a jail. That makes someone appear more guilty than they otherwise would appear if it were held in a neutral location. It is important to protect someone's rights as a citizen to be presumed innocent.

The only issue would be with section 1, subsection 3, paragraph (b). The rest of the bill seems to make a lot of sense because it helps the efficiency of the court and gets people connected. The only request would be to change "alleged offenses," although not for people who are already convicted, as it makes sense to have the trials there for maybe just a ruling. But if you are just "alleged," it seems wrong to create a correlation with someone being guilty and where their trial is held. It is something to think about.

Chairman Hansen:

Do you understand the difference between jail and prison?

Alex Velto:

Yes, I think so.

Chairman Hansen:

You mentioned prison but we are talking county jails in these cases and this is the preliminary step. The idea is that you get thrown in jail even though you have not been convicted of anything, and it takes time for a judge to get there and possibly grant you bail to get out of jail. In prison, you do not get a second shot. You are in prison, you are not waiting for a trial, you have been convicted, and you are going to be there for a year at the minimum.

Are there any questions for Mr. Velto? [There were none.] Is there anyone else here who is in opposition to A.B. 160 who would like to testify at this time? [There was no one.] Is there anyone in Las Vegas who would like to testify in opposition to A.B. 160? [There was no one.] Is there anyone who would like to testify in the neutral position on A.B. 160? [There was no one.] Mr. Ellison, would you like to tie up any loose ends you feel are necessary here for the Committee?

Assemblyman Ellison:

The jail and the courthouse used to be housed in the same building, and when they built a new facility—because the other one was so bad—they added the courtroom in there. We did have a judge, Jack Ames, who had a prisoner bolt out the back door, and the judge ran down the street and tackled him. This would help resolve a few of those small issues.

Chairman Hansen:

We will close the hearing on A.B. 160 at this time, and open the hearing on Assembly Bill 183.

Assembly Bill 183: Revises provisions related to real property. (BDR 10-621)

Assemblyman Elliot T. Anderson, Assembly District No. 15:

Throughout the Great Recession our real estate market has suffered through turbulent times. Uncertainty has plagued it in general. Oftentimes, many people have been extremely frustrated and confused about what their rights and responsibilities are. Some of this can be blamed on the confusing nature of mortgage finance, while some can be blamed on poor real estate practices.

This bill seeks to fix the latter. One way that homeowners in arrears have exited the real estate market has been through a deed in lieu of foreclosure. In general, a homeowner who is in arrears and who does not qualify for a loan modification signs his or her interest over to their obligee, or the bank, rather

than go through the foreclosure process. In exchange, the bank usually provides money for moving expenses, normally in the range of \$1,000 to \$3,000. This deal has also been referred to as "cash for keys." You may be familiar with that terminology. After entering into this deal, homeowners are trying to move on and get out of a stressful period in their lives. Of course, no one likes going through this kind of experience.

However, this exit from the legal world does not always proceed according to plan due to a cloudy title on the property. Instead of being free from stress, some homeowners continue to be stressed out by their property even though they no longer own it, and they have already signed over the deed in lieu. They have signed away that equitable interest. However, after signing a deed in transferring that interest, the deed is not always recorded right away. As a result, legal title—at least to the outside world—does not appear to have transferred. Lien creditors, such as a homeowners' association, city government, or utility company, are unaware that the interest in the property has been exchanged. Therefore, these creditors continue to try to collect from homeowners who just transferred their interest in the property and are trying to move on.

Assembly Bill 183 seeks to clear up confusion in the real estate market through improving the title system. It also seeks to remove the stress that many homeowners go through when trying to turn over the keys to their property. It requires a grantee to record a deed in lieu within 30 days of executing the deed. In 2009 we passed similar legislation to keep a title clear. Senate Bill No. 128 of the 75th Session required trustees or successful foreclosure sale bidders to record the trustee deed after a foreclosure sale. This helps us keep our processes the same. That law has been codified in *Nevada Revised Statutes* (NRS) 107.080, subsection 9. If I recall the vote correctly, except for one or two excused members, I believe it was a bipartisan unanimous vote.

Assemblyman Nelson:

I agree with what you are trying to do and I think it is a very good idea. In section 1, subsection 2, paragraph (a), regarding the liability in a civil action to any party that is a senior lienholder against the property—could you explain why that is in there? I understand how it could damage the prior homeowner, but could you elucidate that senior lienholder situation?

Assemblyman Elliot T. Anderson:

That is existing language from the law that I just referenced. That is why the Legislative Counsel Bureau put it in there. I was confused about it myself, but decided to just let it go to hearing because I did not want to tie it up in drafting.

I think it would be more appropriate for the grantor or the homeowner of the deed in lieu to have that ability. Now, because of people sitting on it—I have heard people not recording for up to a year so they do not have to satisfy the liens—what happens is that homeowners need to hire an attorney to defend themselves against collection efforts and lien creditors harassing them. I suppose there might be a tangent for a senior lienholder. I think in this case the only potential senior lienholder would be a super priority lienholder. I am not sure that is exactly the situation I am trying to fix. I can let the real estate stakeholders who are here speak to it. I think it would be better suited for the grantor to have that right and not a senior lienholder.

Assemblyman Nelson:

I agree. Maybe we could get some help from Legal. That mystifies me.

Chairman Hansen:

Are there any other questions for Assemblyman Anderson at this time? [There were none.] Is there anyone else who wants to testify in favor of A.B. 183?

Jenny Reese, representing Nevada Land Title Association; Reno/Sparks Association of Realtors:

I am here in behalf of the Nevada Land Title Association and the Reno/Sparks Association of Realtors. They wanted to express their support for Assemblyman Anderson's bill.

Assemblyman Nelson:

Do you have a response to the question I asked Assemblyman Anderson?

Jenny Reese:

I can take it back to the Nevada Land Title Association and work with them, and we will work with Assemblyman Anderson to figure out a solution.

Chairman Hansen:

Is there anyone else who would like to testify in favor of A.B. 183? [There was no one.] Is there anyone in Las Vegas who would like to testify in favor of A.B. 183? [There was no one.] Is there anyone in opposition to A.B. 183 who would like to testify at this time? [There was no one.] Is there anyone in the neutral position? [There was no one.] Assemblyman Anderson, I do not think you need to clean up anything; it looks like you have it handled.

Assemblyman Elliot T. Anderson:

I think there may be a few questions, but the issue that this is trying to fix is cleaning up title. Cleaning up title is a neutral concept that is good for everyone involved in real estate. We have a recording process for a reason—so we know

who owns a property and who has an interest on it. When people fail to record a title, that creates a problem for all of us; it gums up the real estate market, and it makes it harder to turn over houses and get our real estate market recovering. That is what the Legislature, in a unanimous fashion, decided in 2009, and this bill is taking the same tack and the same approach.

Chairman Hansen:

With no further testimony on A.B. 183, we will close the hearing and open it up for public comment. Is there anyone who would like to comment on anything at this time?

Assemblyman Ohrenschall:

I wanted to compliment the student from the University of Nevada, Las Vegas (UNLV) who came up and testified. It is great to see students involved and, for all of us UNLV alumni on the Committee, we appreciate it. It takes a lot of courage to get down there in the pit and face a line of fire from all of us, and we appreciate your good comments.

Chairman Hansen:

Yes, Mr. Velto, thank you. It is actually a very intimidating thing to show up here and testify. We see it all the time, so we get jaded to it. Having been in your shoes many, many times in these legislative hearings, I know your heart is pounding, and when someone asks you a question, your mind goes totally blank. Been there, done that. Thank you for coming today.

We do have some Committee business now. We did receive an amendment on Assembly Bill 138 from Stephanie Heying with the Nevada Supreme Court. We will bring A.B. 138 up again for a work session, and I want to make sure we go through it and that everyone has the opportunity to vet it before we bring it up again. Is there any further business to bring before the Committee at this time?

Joshua Rivera, Private Citizen, Las Vegas, Nevada:

I am with the University of Nevada, Las Vegas (UNLV), Consolidated Students of the University of Nevada. I want to give a shout-out to my team, Jack, Denise, and Brittany. We are showing our support for the university and getting people involved in the Legislature, so we are appreciative. I have seen some of you before, so I plan on being here all day and talking with some of you.

Jonathan Solares, Private Citizen, Las Vegas, Nevada:

I come before you as a representative of Student Affairs, UNLV Student Body Government. We would like to show our collective student body that we are

here to be a presence in all the committees and assemblies that will be held today.

Jaclyn Honig, Private Citizen, Las Vegas, Nevada:

I am here from UNLV representing student organizations. I will also be here all day representing our students and interests in these committee meetings.

Chairman Hansen:

Very good; glad to have all of you here today. Is there any other public comment at this time? [There was none.] We will close the public comment. Is there any other Committee business? [There was none.]

The meeting is adjourned [at 9:59 a.m.].

RESPECTFULLY SUBMITTED:

Linda Whimple
Committee Secretary

APPROVED BY:

Assemblyman Ira Hansen, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: March 2, 2015

Time of Meeting: 8:59 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 13	C	Diane Thornton	Work Session Document
A.B. 92	D	Diane Thornton	Work Session Document
A.B. 110	E	Diane Thornton	Work Session Document
A.B. 113	F	Diane Thornton	Work Session Document
A.B. 114	G	Diane Thornton	Work Session Document
A.B. 132	H	Diane Thornton	Work Session Document
A.B. 160	I	Mason Simons, Justice of the Peace, Elko Justice Court	Testimony
A.B. 160	J	Brian Boatman, Justice of the Peace, Eastline Justice Court; Municipal Court Judge, West Wendover Municipal Court	Testimony