

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

**Seventy-Ninth Session  
May 17, 2017**

The Committee on Judiciary was called to order by Chairman Steve Yeager at 9:46 a.m. on Wednesday, May 17, 2017, 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/App/NELIS/REL/79th2017](http://www.leg.state.nv.us/App/NELIS/REL/79th2017).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Steve Yeager, Chairman  
Assemblyman James Ohrenschall, Vice Chairman  
Assemblyman Elliot T. Anderson  
Assemblywoman Lesley E. Cohen  
Assemblyman Ozzie Fumo  
Assemblyman Ira Hansen  
Assemblywoman Sandra Jauregui  
Assemblywoman Lisa Krasner  
Assemblywoman Brittney Miller  
Assemblyman Keith Pickard  
Assemblyman Tyrone Thompson  
Assemblywoman Jill Tolles  
Assemblyman Justin Watkins  
Assemblyman Jim Wheeler

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

None



**STAFF MEMBERS PRESENT:**

Diane C. Thornton, Committee Policy Analyst  
Brad Wilkinson, Committee Counsel  
Erin McHam, Committee Secretary  
Melissa Loomis, Committee Assistant

**OTHERS PRESENT:**

Reesha Powell, Deputy Administrator, Division of Child and Family Services,  
Department of Health and Human Services

**Chairman Yeager:**

[Roll was called and Committee protocol was explained.] We have a work session as well as one bill on the agenda today. We are going to start with the work session. I am going to pull Senate Bill 432 (1st Reprint). Look for that to likely be back on work session on Friday.

**Senate Bill 432 (1st Reprint): Authorizes the filing of a motion for the termination of parental rights as part of a proceeding relating to the abuse or neglect of a child. (BDR 38-475)**

We will open the work session on Senate Bill 239 (1st Reprint).

**Senate Bill 239 (1st Reprint): Revises provisions relating to common-interest communities. (BDR 10-471)**

**Diane C. Thornton, Committee Policy Analyst:**

Senate Bill 239 (1st Reprint) ([Exhibit C](#)) was sponsored by Senator Harris and heard in Committee on May 12, 2017. Senate Bill 239 (1st Reprint) provides that a unit-owner association or its employee or agent may enter upon vacant property without liability for trespass to abate water leaks, sewage leaks, or mold that threatens imminent damage or is damaging the common elements of the property or another unit. If an association or its employee enters upon the grounds of a unit to conduct remediation, it may only do so to the extent reasonably necessary to protect health and safety, to avoid blight or deterioration of the unit or surrounding units, or to protect the use and enjoyment of nearby units. If the unit in question is in foreclosure, the association is not allowed to remediate the damage unless:

- The association notifies each holder of a recorded security interest of its intent to remediate the damage; and
- Within 14 days after the mailing of that notice, each holder of a recorded security interest to whom the notice is mailed notifies the association that the holder does not intend to remediate the damage or fails to remediate the damage.

Senator Harris proposed an amendment. The mock-up is on pages 2-6, ([Exhibit C](#)). The amendment does the following:

1. Provides for process of notification if a unit is vacant of the association's intent;
2. Allows for the abatement of a water or sewage leak in a unit with common walls;
3. Provides for notice to the unit's owner and the removal of components of the unit damaged from the water or sewer leak as necessary for the health and safety of the residents if the unit's owner refuses or fails to remediate or remove the water or mold damage;
4. Provides for the costs of any maintenance or abatement or the reasonable cost of remediation or removal to be charged against the unit; and
5. Lastly, defines "remediation" to not include restoration.

**Chairman Yeager:**

I will take a motion to amend and do pass Senate Bill 239 (1st Reprint).

ASSEMBLYMAN FUMO MOVED TO AMEND AND DO PASS  
SENATE BILL 239 (1ST REPRINT).

ASSEMBLYMAN PICKARD SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN THOMPSON WAS ABSENT  
FOR THE VOTE.)

Assemblywoman Jauregui will take the floor statement. Next, we will move on to Senate Bill 433 (1st Reprint).

**Senate Bill 433 (1st Reprint): Revises provisions relating to guardianships.  
(BDR 13-487)**

**Diane C. Thornton, Committee Policy Analyst:**

Our next bill is Senate Bill 433 (1st Reprint) ([Exhibit D](#)), which was sponsored by the Senate Committee on Judiciary. It was heard in this Committee on May 15, 2017. Senate Bill 433 (1st Reprint) makes various changes to provisions governing guardianships, including replacing the term "ward" with the term "protected person." Among the provisions addressed by this bill are those dealing with:

- Visitation, communication, and interactions among protected persons and family members and other persons of natural affection.

- Rights to petition the court for a violation regarding visitation, communication, and interactions among protected persons and family members and other persons of natural affection.
- Notifications, including those involving changing the residence of a protected person and those concerning the death, impending death, or funeral arrangements of a protected person.
- Imposition of damages for violating the rights of a protected person.
- Appointment of a person to represent a protected person as a guardian ad litem and appointment of a person to represent an adult protected person.
- Imposition of penalties for misappropriation of money from the estate of a protected person.
- Removal of a guardian and appointment of an attorney to represent a protected person under certain circumstances.
- Changes to certain fees for filing petitions and recording such documents.

John McCormick, Assistant Court Administrator, Administrative Office of the Courts, and Ben Graham, Governmental Relations Advisor, Administrative Office of the Courts, proposed an amendment [pages 3-5, ([Exhibit D](#))]. The amendment:

1. Revises when, in the best interests of the protected person, the rights of the protected person may be restricted. Such restrictions must be filed with the court within 10 days (section 5).
2. Deletes language referring to a medical facility for acute care or emergency care (section 12).
3. Allows the guardian to take temporary action under certain circumstances if emergency conditions exist without filing notice with the court and serving notice upon interested persons (section 12).
4. Provides that the Office of the Public Guardian is only required to produce receipts and vouchers for all expenditures upon request of the protected person, their attorney, another interested party, or the court (section 29).
5. Provides that all other guardians are only required to file such receipts or vouchers with the court if the amount of the expenditure is greater than \$250 or the court orders the filing (section 29).

**Chairman Yeager:**

I will take a motion to amend and do pass Senate Bill 433 (1st Reprint).

ASSEMBLYMAN PICKARD MOVED TO AMEND AND DO PASS  
SENATE BILL 433 (1ST REPRINT).

ASSEMBLYWOMAN TOLLES SECONDED THE MOTION.

Is there any discussion on the motion?

**Assemblyman Ohrenschall:**

I appreciate all of the hard work Justice Hardesty and our legislators—Senator Harris and Assemblyman Sprinkle—have done on this issue. I have a concern with the new language in the amendment under section 5. I had asked a question about the original language during the hearing on the bill. Justice Hardesty responded that the decision for a guardian to not allow the protected person to communicate with a person of natural affection or relative would be subject to court review under the cases in the existing bill. I hope that is the case with the new language in section 5, subsection 4 that this would not be the decision of the guardian alone. We have heard the stories about guardians who take a grandmother and then families are not allowed to communicate with their grandmother. Sometimes the accusations the guardian made were not correct. As long as that is subject to court review, I have a good comfort level. I would be worried that if the guardian is the sole judge, jury, and decider of this, they might be subject to abuse.

THE MOTION PASSED. (ASSEMBLYMEN KRASNER AND WHEELER  
VOTED NO.)

**Chairman Yeager:**

I will take the floor statement on Senate Bill 433 (1st Reprint). I will now formally open the hearing on Senate Bill 510.

**Senate Bill 510: Revises provision governing the eligibility of a child for assistance from the Kinship Guardianship Assistance Program. (BDR 38-901)**

**Reesha Powell, Deputy Administrator, Division of Child and Family Services,  
Department of Health and Human Services:**

This bill revisits the current eligibility requirements that are outlined in statute for the Kinship Guardianship Assistance Program. The Social Security Act was modified with the passing of the Fostering Connections to Success and Increasing Adoptions Act (2008), which gave the option for a state to enter into a Kinship Guardianship Assistance Agreement to provide assistance payments on behalf of children to relatives who had assumed legal guardianship of the children for whom they had been caring as foster parents and for whom they had committed to care for on a permanent basis. The Kinship Guardianship Assistance Program was codified in *Nevada Revised Statutes* Chapter 432B in 2011. However, it restricted the program to youth who were eligible to receive maintenance payments pursuant

to Part E of Title IV of the Social Security Act while residing with the relative. This bill requests the removal of that specific eligibility criteria so it will be an available option for all children who are in the custody of a child welfare agency, provided they meet the other eligibility requirements, which include that a youth has been placed with the relative who is a licensed provider of foster care for at least six months; that reunification and adoption have been ruled out as appropriate permanency options; that the child demonstrates a strong attachment to the prospective relative guardian; that the prospective relative guardian demonstrates a strong commitment to continue to care for the child permanently; and if the child is 14 years or older, the youth has to have been consulted and agreed to the guardianship.

Subsidized guardianship is often inappropriate for family members when they do not want to take legal action and have a family member's parental rights terminated. Sometimes this is because of respect or for cultural reasons that they do not want to terminate on their family members. This option would allow children to achieve permanency through guardianship with their relative rather than lingering in foster care, and it provides the opportunity for youth to maintain a permanent connection with their family, which is very important for their stability and for their life outcomes. All youth in Nevada who are in the custody of a child welfare agency and meet the other eligibility requirements should be afforded this program and should not be denied just because they do not qualify for Part E of Title IV of the Social Security Act.

**Chairman Yeager:**

Are there any questions from the Committee? [There were none.] Is there anyone who would like to testify in support? [There was no one.] Is there anyone who would like to testify in opposition? [There was no one.] Is there anyone who would like to testify in the neutral position? [There was no one.] I would invite the presenter back up for any concluding remarks. [Waived.] We will formally close the hearing on Senate Bill 510.

On the Assembly floor yesterday we suspended some of the rules. Seeing that there was no opposition or discussion, I will take a motion to do pass Senate Bill 510.

ASSEMBLYMAN WHEELER MOVED TO DO PASS SENATE BILL 510.

ASSEMBLYWOMAN JAUREGUI SECONDED THE MOTION.

**Assemblywoman Tolles:**

I was only wondering if you had a bet with the Senate Committee on Judiciary for the fastest processing of a bill. Is that somehow at play here? I am in support.

**Chairman Yeager:**

I will plead the Fifth.

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblyman Wheeler. Would anyone like to give public comment? [There was no one.]

This meeting is adjourned [at 10:02 a.m.].

RESPECTFULLY SUBMITTED:

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Erin McHam  
Committee Secretary

APPROVED BY:

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Assemblyman Steve Yeager, Chairman

DATE: \_\_\_\_\_

## EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is the Work Session Document for Senate Bill 239 (1st Reprint), dated May 16, 2017, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit D](#) is the Work Session Document for Senate Bill 433 (1st Reprint), dated May 16, 2017, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.