

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

**Seventy-Ninth Session
February 27, 2017**

The Committee on Judiciary was called to order by Chairman Steve Yeager at 8:05 a.m. on Monday, February 27, 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.

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:

Assemblyman Richard Carrillo, Assembly District No. 18
Senator David R. Parks, Senate District No. 7



STAFF MEMBERS PRESENT:

Diane C. Thornton, Committee Policy Analyst
Brad Wilkinson, Committee Counsel
Linda Whimple, Committee Secretary
Melissa Loomis, Committee Assistant

OTHERS PRESENT:

Nancy Parent, County Clerk, Washoe County
Kimberly M. Surratt, representing Nevada Justice Association and the Family Law
Section, State Bar of Nevada
Bob Yosaitis, Private Citizen, Las Vegas, Nevada
Lynn Goya, County Clerk, Clark County
Margaret Flint, representing Chapel of the Bells and Arch of Reno Wedding Chapel,
Reno, Nevada
Gail J. Anderson, Deputy for Southern Nevada, Office of the Secretary of State

Chairman Yeager: [Roll was called and protocol was explained.] We have three bills today, and I will formally open the hearing on Assembly Bill 204.

Assembly Bill 204: Requires marriage licenses and certificates of marriage to include the name to be used by each spouse after the marriage. (BDR 11-743)

Assemblywoman Jill Tolles, Assembly District No. 25:

Assembly Bill 204 allows a person who is getting married to identify the name they will use after marriage on the application for a marriage license and on the marriage license itself. Currently, Nevada marriage certificates do not have a section for a name change. The only name that an applicant can change using a Nevada marriage certificate is the last name. So where this might apply is, for example, if I wanted to change my maiden name to my middle name in order to take on the last name of my spouse. This has implications with the way we currently do things.

If a person goes to the Department of Motor Vehicles (DMV) to update their driver's license to show their new married name, and the marriage certificate does not show the name change, the person cannot receive an updated license. The person would have to first go through the courts for a legal name change. In addition, social security cards also need to be updated after marriage. Social Security deems a marriage certificate as sufficient proof of a name change. A change in the marriage license application and the marriage license would simplify the process of changing a name due to marriage. Again, it does not change the fact that after receiving a marriage certificate or marriage license they would still have to go to the DMV and the Social Security office. The only thing this does is remove the intermediary step of having to go to the court to change their last name to their middle name.

Instead of the original bill, there is a mock-up ([Exhibit C](#)) from the Legal Division that includes a friendly amendment. Nancy Parent, from the Washoe County Clerk's office, is going to walk you through that amendment, which helps outline what this marriage certificate will do and what it will not do.

Nancy Parent, County Clerk, Washoe County:

The amendment incorporates my suggestions concerning names that can be designated by a couple when they are applying for a marriage license ([Exhibit D](#)). It also makes it optional for them to make that decision as opposed to mandatory. As currently drafted, a couple must use their first names as their first names after marriage, but they could choose any name they wanted for their middle and last names, regardless of whether or not they had any association with that name before. For instance, John Smith and Mary Jones could designate their names after marriage to be John Snowshoe and Mary Snowshoe.

I propose that we clarify the names that people are allowed to designate at the time they apply for a marriage license. For the middle name, I propose that we limit it to the current last name of either spouse given at birth, a hyphenated combination of the current middle name and the current last name of either spouse, or a hyphenated combination of the current middle name and birth last name of either spouse. Everything is somehow related to the person and names that they have previously been known by.

As a last name, I would propose that we limit it to the current last name of either spouse, the last name of either spouse given at birth, or a hyphenated combination of potential last names as listed as possible middle or last names—again, keeping it in association with some name that they have used previously. These specifics are set forth in section 1, subsection 8 of the proposed amendment.

Additionally, as drafted in A.B. 204, it would be mandatory for couples to make a designation of what names they want to use after marriage. It is proposed that they have to do that at the time they obtain the license. In Washoe County, 60 percent of our couples are from out of state. Many of them are nervous, giddy, not concentrating, and have a hard time answering the questions that they are supposed to answer just to get the license in the first place, let alone decide what name they want to use after they are married. I would suggest that rather than making it mandatory, let them designate if they choose not to make a choice right then, and then they can decide later what names they want to use. This change is made in section 1, subsection 8, by inserting the word "may" as opposed to "shall" in the first sentence.

I have also changed the formatting of the marriage license and marriage certificate to add the extra provision that they either indicate the name they have chosen or that they have not made a designation. An item that was not included in the original bill but I included in the amendment is in section 1, subsection 8, that an applicant can only designate their name in this way at the time they issue the marriage license. They cannot come back a couple of

years later and ask to change what they did when they applied for the license. We are limiting the time in which they can do that. I think it would make things run smoother overall for all the agencies who are associated with names if we limit it to that time.

I appreciate working with Assemblywoman Tolles on these concerns. I think they will help us do what she intended. To be frank, not all of the county clerks are necessarily in agreement. They have some concerns about this bill. They are worried about the couple being concerned about whether or not they have to take other legal steps, and they are worried about having to make sure that the names that people designate are their real names. I know that Clark County Clerk Lynn Goya is prepared to testify to those issues. I like my amendment as drafted, but I totally respect the concerns that my fellow clerks have, and we will leave it to you.

Chairman Yeager:

I noticed that the original bill and the amendment have an effective date of July 1, 2017. Is that going to give you enough time to do what you need to do to make that happen? Do you feel comfortable with that date, or would an October 2017 date be more appropriate?

Nancy Parent:

I think it would be best to give everyone a little bit more time. I had not really thought about it until now. I probably could make the changes, but I think there are so many of us, and we are not all on the same systems. October might give us more time to work with our systems to make the change.

Chairman Yeager:

The reason I ask is because we are obviously at the beginning of this process and, assuming we pass the bill, I do not know how long it will take to go through the Senate and potentially come back. We will keep that in mind. Assemblywoman Tolles, please let us know if you have any issues with that or if you would be comfortable with a later effective date.

Assemblywoman Tolles:

I accept the friendly amendment from Washoe County and would accept changing it to October.

Assemblyman Watkins:

My wife fits right into the purpose of this bill. She has two names now; one that is recognized in the state of Nevada, and one on her passport because she could not move her previous last name to her middle name without going through the court process.

The one thing I did not see captured in your amendment is that there are younger people who are combining their last names into a new name. We have one of our own, Assemblywoman Swank. Her last name is a combination of her and her husband's previous last names that come together. You are out there in the field. Do you see that very often? Do you think that is something that needs to be captured in this bill?

Nancy Parent:

I have not seen it, but I would not necessarily see that. Currently, when people come to get a marriage license, they do not tell us what they want to be called after the ceremony. We just issue it to the names they currently have. They take the marriage certificate after their ceremony to the other authorities and make their changes there. I would not see it.

Assemblyman Pickard:

I appreciate this bill; I know how difficult it can be. In domestic matters, we have a similar capability in a divorce situation to make the change a part of it. As I do not really understand the process, would you tell us what they currently have to do to make that change? Under the amended bill, would you tell me what the process is? If they opt not to do so at the time they fill out their marriage certificate, what is the process for them to make that change later?

Assemblywoman Tolles:

I am not sure I understand the question. Are you asking what the process is currently that they go through if they want to change their last name to their middle name through the courts?

Assemblyman Pickard:

Yes, and under the amended bill, how does the process change? What would they now be able to do? This is all after filling out the marriage certificate in the first place. This is optional. They elect not to because they are giddy, and I understand that. So they elect not to make the change on the form. What is the current process, and what would the process become under this bill?

Nancy Parent:

I would think that if they chose not to make the designation, it would not change anything about the process. It would be exactly as it is now.

Assemblyman Pickard:

You said there is a deadline if they do not initially select the option to make the change. Outside of a formal name-change process, I am wondering what the process is for both—and maybe it is one in the same. If they do not elect at the time of filling out the marriage certificate, you said there is a deadline for them to make the change later. I do not know what the process is and how it might change.

Nancy Parent:

It is not so much a deadline. It is just that at the time they purchase the marriage license, that is the only time they can do the designation through this process. It does not change anything else about the name-change process.

Assemblyman Pickard:

If they do not make the election, they then go through the normal name change process?

Nancy Parent:

Yes.

Chairman Yeager:

My understanding of this bill was simply that the name change process after the fact is cumbersome, to say the least. This would provide an option for those who know they want to do it when they receive the marriage certificate; this would streamline the process. Is that right?

Assemblywoman Tolles:

That is correct.

Assemblywoman Miller:

I know that sometimes people get marriage certificates and they do not actually go through with it, or they go through the ceremony and then do not file it with the county. At that point, would it just be null and void? This would not be the official legal name change, would it?

Nancy Parent:

The marriage is not null and void if the marriage certificate is never recorded. It presents a huge problem for the couple if the person who marries them does not do that. They would still be married, and everything they signed would still be effective. It is just a matter of not having that actual document recorded.

Assemblywoman Miller:

What happens if they do not get married after receiving it?

Nancy Parent:

If they do not get married, nothing changes, because nothing changes until after the marriage and the marriage certificate is recorded.

Chairman Yeager:

Are there any other questions from the members? [There were none.] Is there anyone who would like to testify in support of A.B. 204?

Kimberly M. Surratt, representing Nevada Justice Association and the Family Law Section, State Bar of Nevada:

I am in support of this bill. I only got up so I could give some quick testimony about the name-change process. It is absolutely going to streamline it. As family law practitioners, we get approached with name-change requests all the time. You have to file a petition with the court. You then have to publish in the newspaper for up to six weeks and pay for that publication—by the word—for each time it publishes. Once that is done, we then return to the court for a hearing, go to the hearing, and then get our order; only then can they go process their name change. It can cost anywhere between \$1,500 to \$3,000. I have been practicing family law for many years, and I have never had an opposition to a name change.

It is possible because creditors could come in, but it is really more about notice to creditors. I have never had an opposition. People are paying that kind of money just to go through a process and procedures versus an actual contested hearing where you are taking in real evidence.

Assemblyman Elliot T. Anderson:

What is the purpose of all that process?

Kimberly Surratt:

The theory behind it is to give notice to your creditors. If you are perpetrating a name change because of fraud, and you are trying to change your name so you can hide from your creditors and a criminal aspect—go get a new name and be auspicious—in theory, your creditors could see the publication, know about it, and know you had that normal name change. The theory behind this bill—for both marriage and divorce—is you are usually not getting married for fraud. You are usually not getting divorced for the purpose of fraud. The name change is done automatically, or the idea is to have it be done automatically because there is a different intent behind your changing of name.

Bob Yosaitis, Private Citizen, Las Vegas, Nevada:

We got married in June and had to fill out a bunch of forms at the clerk's office to change my wife's middle name from her maiden name to her current name. The cost of that was \$270. In addition, we had to file with the newspaper, the *Las Vegas Review Journal*, which was \$88, so the total fee was \$358. The whole process took about 2 1/2 months. During the process, we are flying around the country, and we are trying to guess what her name is going to be. We had two or three cases where we thought the name change was going to be in place. It was not in place. We get to the airport, and the name on the identification does not match the name on the plane ticket, and we have issues with the Transportation Security Administration. The bill would clean up all that and make it a lot easier just to get the name changed the day you get married and get the proper paperwork.

Chairman Yeager:

Are there any questions? [There were none.] Is there anyone else who would like to testify in support of A.B. 204? [There was no one.] Is there anyone in Carson City or Las Vegas who would like to testify in opposition of the bill? [There was no one.] Is there anyone in Carson City who would like to testify in the neutral position? [There was no one.] Is there anyone in Las Vegas who would like to testify in the neutral position?

Lynn Goya, County Clerk, Clark County:

I am neutral on this bill. I have a few concerns. I have attempted to reach out to some of the cosponsors, but was not successful, so that is why I am neutral instead of putting through an amendment at this point. My concerns are primarily what documents are we going to require the clerk's office to review in order to assess the name change? For instance, my driver's license just says "Lynn Goya," whereas my full name is Lynn Marie Goya. My driver's license is considered a legal identification that I can take to get the marriage license for identification. If I wanted to put the middle name on the legal name, I would not have

documentation. Does the clerk's office then need to send someone back for their birth certificate? Does the clerk's office accept it as is? Are we verifying that new name because it may not match the current identification? I would be in support of this bill if the clerk's office did not have any legal requirement to verify the new name. The other question I have is this is just for Nevada residents or does this apply to international people and people from other states?

Chairman Yeager:

Are there any questions? [There were none.]

Margaret Flint, representing Chapel of the Bells and Arch of Reno Wedding Chapel, Reno, Nevada:

My family has owned and operated Chapel of the Bells in Reno, Nevada, since 1962. I also represent the Arch of Reno Wedding Chapel. We are not opposed to this bill, but we do have some concerns ([Exhibit E](#)). I am hearing that this process on name changing seems to be this complicated issue, but it really is not. Once the marriage is performed and the marriage is filed, by law, the officiant who finalizes that marriage has ten days to file the paperwork. Once the paperwork is filed, a couple obtains a certified copy through the county recorder's office. That certified copy, if they choose to do a name change—which there is no law that mandates they have to do a name change—they take the certified copy of their marriage certificate to the Social Security office. Once they have changed their name with Social Security, they take that and the certified copy to the Department of Motor Vehicles in whichever state they reside. That is where they change their name.

My concern is it is going to complicate a whole lot of questions that people are not going to understand. I think it is going to be presumptive to them that their name is automatically changed when in fact it is not until they go through all of those appropriate channels. As far as changing a middle name to a last name, I think a woman can pretty much use whatever name she wants. She can hyphenate it, so why would she want to drop her middle name to assume a last name? Anyway, I see this creating a lot of confusion. I do not want to oppose this bill, but I want you to consider some of these concerns as you consider it.

My wedding chapel maintains 20 to 25 percent of the marriage licenses issued every week in Washoe County. Consider that is about 8,000 licenses issued in Washoe County every year, and we are maintaining 20 to 25 percent of it. Very, very few couples come with these questions. One out of maybe a thousand want to know why it does not reflect the name on a marriage license after they have purchased the marriage license. That is because that is not who that person was when they bought that license. I am Margaret Flint today, but if I were going to marry Assemblyman Hansen, I am not going to be Margaret Hansen when I purchase it. It is up to me to decide if I want to make that name change after the fact.

Those are my concerns. I am not opposed to the bill. If you decide this is what you want to do, it is fine, and we will learn to work with it.

Chairman Yeager:

Are there any questions? [There were none.] Is there anyone in Carson City or Las Vegas who would like to testify in the neutral position? [There was no one.] I will close the hearing on A.B. 204.

Before we open up the next hearing, we have a bill draft request introduction to make this morning.

BDR 14-444 — Enacts the Human Trafficking Prevention Act. (Later introduced as [Assembly Bill 243](#).)

Is there a motion for introduction of Bill Draft Request 14-444?

ASSEMBLYMAN WATKINS MOVED TO INTRODUCE
BILL DRAFT REQUEST 14-444.

ASSEMBLYMAN PICKARD SECONDED THE MOTION.

Chairman Yeager:

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

I will open the hearing on Assembly Bill 191.

Assembly Bill 191: Revises provisions governing parentage. (BDR 11-761)

Assemblywoman Lesley E. Cohen, Assembly District No. 29:

Assembly Bill 191 gives some consistency to Nevada families. Over the past several years, we have made piecemeal changes over children and parentage issues in different chapters.

Kimberly M. Surratt, representing Nevada Justice Association and the Family Law Section, State Bar of Nevada:

Assembly Bill 191 is an effort to go through quite a few sections and get consistency going with parentage. There are three primary goals within this bill. One is to give us some consistency with our reproductive statutes that we passed a couple of sessions ago in which a couple can have a donated embryo or a donated egg. Thus, it may be that either the mother or the father needs a voluntary acknowledgement of parentage. Within the reproductive chapter we say that the consent should be in writing. We did not say where that writing was or where we should put it. We did not go further with it, so we did not give any guidance to our hospitals, vital records, or to the families as to how to do that writing. Our chapters already contain an acknowledgement of paternity. This would refer to sections 1, 2, 3, and 9 through 15. There are many small changes in order to add parentage in because it exists in a lot of different places in the chapter. The reason we have left paternity in the chapter and not just changed the parentage is because it is a federal beast. The federal government

requires us to have these acknowledgements of paternity, and we have some funding that is attached to it. It goes directly into our child support statutes and, out of complete fear, I left the word "paternity" in this chapter and just added "parentage" in order to cover us on both ends of it.

Section 4 is about when the state of Nevada has jurisdiction over gestational carrier agreements. We passed that law a couple of sessions ago and, within it, we talked about the child being born in the state of Nevada. A gestational carrier agreement is the surrogacy agreement, and it is a contract. Contract principles about entering into a contract go beyond just where the child is going to be born. If we are utilizing our medical facilities in the state of Nevada, and we are doing so under these contracts, we also need to control that the rest of our reproductive chapter applies. We have some really wonderful and well-acknowledged requirements in our state for surrogates to be represented and for there to be psychological and medical screening of the parents. We need to make sure those requirements always apply when we are creating a child in the state of Nevada.

Sections 5 through 8 deal with adoption of a child and when Nevada is able to deal with the adoption of a child. We have a general principle—the Uniform Child Custody Jurisdiction Enforcement Act (1997). That principle states that we have jurisdiction over a child for six months after that child is born. Jurisdiction is based on the last place the child has resided for six months. This is a uniform concept across the United States, and the reason we have it is so that we know whether Nevada versus Utah versus Texas is supposed to deal with a child who has been moving around. Nevada keeps control for six months. If that child resided in a new state for six months, then that new state takes jurisdiction. We want to apply that same concept to adoptions because you may have a child born in the state of Nevada and immediately placed up for adoption. At times when you place a child with a private adoption agency, the parents they are placed with may be out of state. The child may go ahead and travel out of state, but Nevada should continue to be in control over that adoption—at least for the six months. If the child has been gone for longer than six months, the general concept in family law is that it moves on.

There are some provisions. Someone reached out to us about the language regarding the Indian Child Welfare Act of 1978 being in here as an exception. It has its own rules. We follow the Indian Child Welfare Act at all times, and it is the exception among all of our family law chapters regarding a child who fits within that definition.

Assemblyman Pickard:

The reason this is important is it is spread out over several sections and over the past several sessions we have been trying to consolidate and clarify many of the rules. I think that many who do not practice family law do not understand that there are a lot of moving parts within the family law statutory scheme. This is nothing more than an extension of that process. We are trying to clean it up, accommodate the language for gestational agreements and surrogacy and the other things that have been recently adopted. It is important that we continue the process, reach through the various statutes, and make the conforming changes. This is an important bill to that end.

Assemblyman Elliot T. Anderson:

Provisions for jurisdiction seem conspicuously missing. What if there is a choice of law provision in the contract? I would imagine that people entering into this sort of agreement would want some sort of certainty, and I am curious as to what would happen in that instance. Would this override the intent of the parties under the contract?

Kimberly Surratt:

It would, because it would be at the choice of the parties. Of course, in regard to the choice of law that they chose—if they could go there, they have to determine whether or not they can get that court to confirm their contract or not. This allows them to apply in Nevada for confirmation of the contract under all these different provisions. You could put in here "by contract," but again, this is when those parties go and actually apply to the court. It is under all of these principles. There is nothing wrong with a contract provision like that, but I think that is up to the parties. If they put it in their contract and they chose not to file in Nevada, but they made an agreement between them to file in another state, again, it is whether or not that other state has any jurisdiction.

A lot of times people do not put that into their contracts. They will file in Nevada and perhaps none of these apply, where the child was not born here, the parents did not live here, they did not have medical procedures here, and there is no access or contact with the state of Nevada. I do not know if, on a policy principle, whether or not we want to open that up even further where there has been no other contact with their state or not. That is like saying you had a surrogate who lived in California as well as the intended parents. The [adoption] agency, attorneys, and the medical clinic were in California. Nothing was in the state of Nevada—but if they chose Nevada in their contract, could they file here for a parentage order? That is a policy decision.

Assemblyman Elliot T. Anderson:

What happens if you have a predominant number of subparagraphs apply in a different state? Right now we also have a lot of law out there if there is conflict of law between two states. Do you anticipate that your intent is for these factors to override any conflict issues?

Kimberly Surratt:

Yes. We are still dealing with children, and we still have an interest in having some kind of nexus to that child before we make parentage decisions over that child. It is a confirmation of a contract, but when it comes to children, everyone is going to be looking for one of these nexuses. The child had to have some kind of contact before a state is going to take jurisdiction over that child.

Assemblyman Ohrenschall:

In section 11, subsection 2, the new language in the new paragraph at the top of page 9 talks about "agencies described in paragraph (b) of subsection 1 shall ensure that the mother and the person who wishes to acknowledge parentage are given notice, orally and in writing, of the rights, responsibilities and legal consequences" Is the "in writing" notice certified mail or hand-delivered? What are you envisioning?

Kimberly Surratt:

For section 11, subsection 2 on page 9, the notice that is given to parents is already done by the acknowledgement of paternity. It is done at the hospital. It is part of the form that is handed to them, which is the vital records documentation. It is a concept that is already in place and existing and moving forward. What happens right now in a voluntary acknowledgement of paternity is you will have a couple come in and they say, "This is Dad." Of course, no one has done a DNA or genetic test, but the dad has the right to fill that out without having to go through the entire process. It is always a rebuttable presumption of parentage, because you can go in under other principles of law and say, no, he actually was not a parent. It has the notice language in there when he signs the acknowledgement of paternity.

Assemblyman Ohrenschall:

So what you envision is already in place.

Kimberly Surratt:

Yes.

Assemblywoman Cohen:

It is often referred to as the VAP, Voluntary Acknowledgement of Paternity.

Chairman Yeager:

Are there any other questions? [There were none.] Is there anyone in support of the bill? [There was no one.] Is anyone opposed to A.B. 191? [There was no one.] Would anyone like to testify in the neutral position on the bill? [There was no one.]

Kimberly Surratt:

Thank you, and I appreciate the time.

Assemblywoman Cohen:

Ditto.

Chairman Yeager:

I will close the hearing on A.B. 191 and open the hearing on Assembly Bill 227.

[Assembly Bill 227](#): Makes changes relating to domestic partnerships. (BDR 11-784)

Assemblyman Richard Carrillo, Assembly District No. 18:

Assembly Bill 227 is a fairly simple bill, but it is going to help a lot of people.

Kimberly M. Surratt, representing Nevada Justice Association and the Family Law Section, State Bar of Nevada:

This is a continued effort of the Family Law Bar to get cleanup language and streamline things to go along with the way we actually practice family law. Our domestic partnerships are for the purpose of individuals who want to enter into a domestic partnership relationship

and receive the state benefits of marriage. They do not receive federal benefits of marriage. This has a lot of benefits for many couples. Unfortunately, a lot of elderly couples get divorced or only enter into a domestic partnership because if they get married, their combined incomes will cause them to lose federal benefits. Our bill states that if you are in a domestic partnership from another state, you have to reregister in the state of Nevada in order for us to recognize that domestic partnership from the other state. It also resets your community property date.

Nevada is a community property state, which means that if you get the benefits of marriage under a domestic partnership, you start accruing community property from the date of the marriage to the date of divorce, and everything is considered 50/50 in-between. The date you enter into it is really important for a family law attorney to assess when the community started, what assets are part of it, what was purchased, and what debts were accrued during those dates.

Under our current structure, you have to reset that date in the state of Nevada. You may have been in a domestic partnership in the state of California since 2005 but, unless you reregistered in Nevada: (1) we are not going to recognize it, and (2) once you do reregister in Nevada, in order for us to recognize your other relationship, our statute currently says we will recognize the other relationship. Your date restarts. The main purpose of recognizing the other relationship is for that date. It is critical for us to know when and how to divide assets. It has caused a lot of litigation. I have been involved in multiple cases; judges are very frustrated, I am very frustrated, and a lot of attorneys are frustrated. What is the point of recognizing the other relationship if we are not going to recognize the date?

There are minor changes where the language has been cleaned up in order to accomplish this. In section 4, subsection 4 it states, "Any reference to the date of a marriage shall be deemed to refer to the date of registration of the domestic partnership . . . if the domestic partnership is recognized pursuant to NRS 122A.500, the date on which the legal union of the domestic partnership was validly formed in the other jurisdiction." It seems very simple; it is simple, but it will have a giant impact on the way we actually practice law for these couples in the state of Nevada.

Section 6 takes out the language about having to register "in another jurisdiction to be recognized" and inserts "or is registered in this state." In section 9, we deleted the language about the domestic partnership which was validly formed in another state and having to reregister in the state of Nevada. It is really repetitive, and I do not want to sit here and read the sections to you, because I know the Committee has done that. I would rather answer specific questions about each of these if the Committee would oblige it.

Assemblyman Pickard:

I completely agree with the intent of this bill. I have run into this myself in my own practice, and it creates problems when we have two different start dates to the community. I am wondering why we chose to make registration optional in Nevada—instead of agreeing that

the first date of filing in any state of a domestic partnership, given they are coming to Nevada to benefit from the laws of this state—why have we decided to eliminate the need for registration as opposed to just moving the date?

Kimberly Surratt:

You could, but logistically most people do not realize or know they need to do that. Most people enter into their domestic partnership and think they are good to go. They are working off of knowledge from that other state as to what they are supposed to do and not do. In litigation, once they get to us, they have no concept of needing to file or register here also. These couples have a good understanding and appreciation of the fact that they have state benefits and they do not have federal benefits. When they move to a state that has domestic partnerships, there is an assumption made that they are good to go, and they do not need to reregister. If we require them to reregister, the only thing we are getting out of it is a few \$50 filing fees at the Secretary of State's Office and a one-page document. It is not like it is a complex process, but people do not necessarily know or understand it.

Assemblyman Anderson:

Do other states charge registered domestic partners in Nevada a fee when they move?

Kimberly Surratt:

My understanding of other states—and each one has different versions of this, but I have pretty good knowledge of how it works around the country—is that I have never seen another state require the refiling. Based on my knowledge from being here when we passed this bill, we copied the language from California to start with, but there have been mass modifications in California since then. California will recognize that domestic partnership. You will see couples after years of marriage-equality fights and battles, who have signed up for every relationship there is in the world; they have gone to Canada for marriage; they have done a civil union in Vermont; they have done California and a Nevada domestic partnership. They have gone for every layer of protection that they can possibly get. If you want to see complex litigation, that is it.

Assemblywoman Cohen:

I am somewhat concerned. I do not want this to become common law, where people think Nevada has common-law marriage. I think you have had the same thing where someone will come into your office and say, "Well, I have a common-law wife," and you have to explain to them that we do not have that in Nevada. I do not want to cut people off who legitimately have a domestic partnership, and I do not want to make people jump through extra hoops when there is a legitimate domestic partnership. I do not want people to think I have a domestic partnership just because I say so, the way that some people think they have a common-law marriage just because they say so. Would you address that?

Kimberly Surratt:

I do not fear that. Those are the same kinds of arguments we had when we tried to pass the domestic partnership bill. It did not happen. We have some recordkeeping on it. They have to have registered in that other state. We are saying that we are going to recognize that

California has domestic partnerships, and we are going to give it the same kind of credit California gives it. We are giving it here. We do the same thing with marriage. You get married in another state and we do not question it. We just look at that marriage license and say that you are good to go. We are doing the same thing here. We look at the domestic partnership registration. It is a certificate. You get it from the Secretary of State's Office from California. We look at it and recognize it here. You have to have that certificate in front of you.

Assemblywoman Cohen:

In section 9, subsection 2, paragraph (b), there is reference to marijuana. Now that this state has legalized recreational marijuana, does that need to be looked at?

Kimberly Surratt:

That is language I have not touched because it is not the intent of this bill. My intent was not to go in and fix all of it, but to fix the specific issue of the date. The way that paragraph is written is a policy decision for this Committee. As a family law attorney, it has no impact on me.

Assemblywoman Krasner:

What other states are currently implementing this procedure? Would this not fall under the Fourteenth Amendment's Equal Protection Clause and the Privileges and Immunities Clause, we should already be recognizing things that are done in sister states?

Kimberly Surratt:

Full faith and credit applies to judgments of courts. The reason we initially had arguments and issues about marriage equality was because, whether or not a marriage license was going to be given equal protection, we could not give it full faith and credit from state to state. Within this, domestic partnerships are state-created beasts. Marriage is an institution that is nationwide. Do we need to give domestic partnerships equal protection between the states? Not all states have that institution. They have a marriage institution, but they do not necessarily have a domestic partnership institution. To go to those other states and say, "You have to give it equal protection." You can make those arguments, and there have been cases that have been won on those principles, but it is obviously extremely expensive to be making those contested arguments versus fixing the date to be consistent with our regular marriage laws here. Because we have this framework of a domestic partnership, we are going to recognize it from another state.

Chairman Yeager:

Are there any other questions from the Committee? [There were none.] Is there anyone who would like to testify in support of A.B. 227?

Senator David R. Parks, Senate District No. 7:

I am here to speak in support of A.B. 227. Domestic partnership legislation was passed in the 2009 Legislative Session, and I was the primary sponsor of it. I wanted to come forward and give a "me too" in support of A.B. 227.

Chairman Yeager:

Is there anyone else in Carson City or Las Vegas in support? [There was no one.] Would anyone like to testify in opposition to this bill? [There was no one.] Would anyone like to testify in the neutral position on this bill?

Gail J. Anderson, Deputy for Southern Nevada, Office of the Secretary of State:

I oversee the domestic partnership filing program for the Office of the Secretary of State. The Nevada registry is oftentimes utilized by employers for verification purposes. The questions that we have had in our office on domestic partnerships have been in regard to domestic partners having certain rights to insurance coverage; that seems to be the one area where we have had a lot of questions. I know that the Nevada registry is utilized by individuals to verify domestic partnerships. That would be one thing to think about. The other area is terminations. We have seen many terminations past the time period of five years where terminations could be done by the simplified process that was originally set forth in the domestic partnership bill. Now it requires a divorce proceeding to have terminations done. That is another basic recordkeeping process that is in our registry of when a partnership was filed and when and if it is still in effect or when it was terminated. I wanted to mention those two things in regard to ways the Nevada registry is utilized particularly by employers of the state.

Assemblyman Pickard:

Are you suggesting that because it is not registered in Nevada that the Secretary of State's position is Nevada would not have jurisdiction to hear the case?

Gail Anderson:

We do not hear a case. We would just be verifying whether or not there was a domestic partnership in effect. The termination under divorce proceedings requires a court order that our current law does not require be provided to our office, but we do receive them and encourage people to provide them if they have terminated their domestic partnership so that our database can be as accurate as possible.

Chairman Yeager:

Are there any questions? [There were none.] Is there anyone else who would like to testify in the neutral position on this bill? [There was no one.]

Kimberly Surratt:

I can respond to some of the concerns that were given. When we talk about verification, I think everyone realizes that when you show up to get insurance as a married couple, it is very rare for your employer to actually verify your marriage license or go to the government to verify it. It has always been a very odd process for domestic partnerships to undergo some kind of verification when marriage licenses do not. You can verify it no matter where it was, whether it was Nevada, California, or if it was a Vermont civil union. It is the same verification process. If the employer feels the need to do it, they need to go to where the actual certificate was issued and verify it. It does not matter whether it was here or there.

As far as simple terminations, Nevada does get utilized for simple terminations. California has the same process. There are other variations of it, but they have the exact same simple termination process in which a couple can terminate their domestic partnership. If you are under five years, you can do it through a certificate process through the Secretary of State's Office. You can also still file for a divorce. It does not matter whether you do either one. If a couple came from California and are asking Nevada to recognize their domestic partnership, they can go back to California and utilize the simple version. California, like many states, was having problems with their domestic partnerships moving around the country; people are stuck in states that would not recognize their domestic partnership from California. California's divorce jurisdiction rules stated that they had to reside in the state of California, and Nevada's jurisdiction rules state that you have to reside for six weeks with the intent to remain here. If you do not have that residential requirement and you are in a state that refuses to divorce you and you did not live in California, you were forced to stay in a domestic partnership. California responded with a law change that states, If you are stuck somewhere where you cannot get divorced, we will help you and here is how we are going to help you. That has also happened to our Nevada domestic partners who have gone to other states, and the response has been to make that change. This is a simpler change, which is asking to fix the issue of the community property dates. We could easily ask for additional changes to fix the other problems, but that is not part of this bill.

Chairman Yeager:

We will close the hearing on A.B. 227. Would anyone in Carson City or Las Vegas like to give public comment this morning? [There was no one.] The meeting is adjourned [at 9:10 a.m.].

RESPECTFULLY SUBMITTED:

Linda Whimple
Committee Secretary

APPROVED BY:

Assemblyman Steve Yeager, Chairman

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a proposed amendment to Assembly Bill 204 presented by Assemblywoman Jill Tolles, Assembly District No. 25.

[Exhibit D](#) is a letter dated February 24, 2017, in support of the proposed amendment to Assembly Bill 204 to Chairman Yeager and members of the Assembly Committee on Judiciary, authored and presented by Nancy Parent, County Clerk, Washoe County.

[Exhibit E](#) is written testimony authored and presented by Margaret Flint, representing Chapel of the Bells and Arch of Reno Wedding Chapel, Reno, Nevada, dated February 24, 2017 regarding Assembly Bill 204.