

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

**Seventy-Ninth Session
March 21, 2017**

The Committee on Judiciary was called to order by Chairman Steve Yeager at 9:03 a.m. on Tuesday, March 21, 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 Jim Marchant, Assembly District No. 37



STAFF MEMBERS PRESENT:

Diane C. Thornton, Committee Policy Analyst
Brad Wilkinson, Committee Counsel
Karyn Werner, Committee Secretary
Melissa Loomis, Committee Assistant

OTHERS PRESENT:

Brian R. Hardy, Attorney, Marquis Aurbach Coffing
Barry Smith, Executive Director, Nevada Press Association

Chairman Yeager:

[Roll was taken. Committee protocol and rules were explained.] We have two bills on the agenda today and we will take them in order. I will open the hearing on Assembly Bill 119.

Assembly Bill 119: Revises provisions governing garnishment as it relates to spousal and child support. (BDR 3-732)

Assemblyman Jim Marchant, Assembly District No. 37:

I am here to present Assembly Bill 119 for your consideration. This bill gives priority to writs of garnishment to satisfy judgments for the collection of spousal support over certain other claims.

Currently, if you owe debt and reside in Nevada, a creditor may use several ways to collect a delinquent debt, including wage garnishment, account levy, and, in some cases, seizing personal property. Before a creditor may collect a delinquent debt, the creditor must go to court to receive judgment. If granted, the most common method used by a judgment creditor to enforce judgments is wage garnishment. A judgment creditor contacts your employer and requires the employer to deduct a certain portion of your wages each pay period and to send the money to the creditor.

In Nevada, garnishment for child support must be given first priority. However, collection of spousal support obligations is not a priority in Nevada. Many women transitioning from a married life to a single life face a lot of uncertainty. On top of the emotional burden, many also face a financial burden for various reasons. Assembly Bill 119 seeks to give priority to spousal support over a writ of collection. If a person has multiple writs of garnishment against him or her, the law requires the court to give first priority to a writ for the collection of the support of a child. This bill adds the collection of spousal support to the statute. In addition, the bill provides that between the collection of child support and collection of spousal support, per *Nevada Revised Statutes* (NRS) 31A.160, the court is required to give priority to the support of a child.

Assembly Bill 119 seeks to give relief to those individuals going through hard times. I would like to note that this bill does not change the terms in which spousal support is reached; all it does is make it a priority.

Brian R. Hardy, Attorney, Marquis Aurbach Coffing:

I am here in support of Assembly Bill 119. As I am sure you are aware, financial issues are often cited as one of the primary causes of divorce. As such, following a divorce one spouse is often strapped with the financial burdens of the marriage in addition to paying both child and spousal support. Unfortunately, during this time when the individuals are trying to put their lives back in order following their divorce—and trying to become accustomed to single life as a divorcee—creditors step in and flame the tensions between the parties. The creditors make it impossible or impractical for one spouse to pay the support obligations and the reliant spouse's expectation to receive the same.

This unfortunate situation causes stress on both of the divorced parties and the child, as it amplifies existing tensions between the two adults. Moreover, the reliant spouse expects the support payment, but it may be plundered by creditors. The custodial parent has few options and often dips into the child support payment he or she did receive, which was supposed to be used for the care of the child. As a result, the separated family unit suffers. Parents continue to fight over financial issues after the divorce, and children are caught in the middle of a never-ending cycle of fighting. Often, they may not receive the full benefit. Although the child support is paid, simply put, we cannot let this vicious cycle continue. The time has come to give a family separated by divorce a chance to heal, and for spouses—along with the children they support—to take a priority over creditors. This concept is not novel. Rather, Nevada is just late to the game.

Federal law, *United States Code*, Title 28, Section 3205, provides that a spousal priority with respect to the collection of federal debts says, "Judicial orders and garnishments for the support of a person shall have priority" Additionally, states like Arizona, California, Florida, Illinois, Indiana, New Jersey, New York, Pennsylvania, Rhode Island, Tennessee, Washington, Wyoming, Wisconsin, Colorado, Oklahoma, Maine, Idaho, and Nebraska also give priority to spousal support over other creditor obligations. Simply put, this is not a new or novel concept. This is a concept that supports the family and gives them an opportunity to succeed after divorce. Assembly Bill 119 supports those who have no voice, and those who look to their elected officials for help. We ask for your support.

Chairman Yeager:

I note that there is an amendment on Nevada Electronic Legislative Information System ([Exhibit C](#)). Could one of you explain what the intent of the amendment is and how it seeks to change the bill as introduced?

Brian Hardy:

The initial bill, as it went forward, only identified the "or spousal support" section added to section 1, subsection 5. Thereafter, there was a provision added that says, "As between writs of garnishment to satisfy judgments for the collection of child support and writs of

garnishment to satisfy judgments for the collection of spousal support, the court shall give priority in accordance with the provisions of subsection 2 of NRS 31A.160." That particular provision made sure that, consistent with federal law, child support had a priority over spousal support. Then after the child support, spousal support took priority before creditors.

Assemblyman Pickard:

It is interesting to me that no one spotted this before. My only concern is whether you have worked with organizations, such as the constable's office, in executing these writs. Are they comfortable with making the priority distinctions? Not that they have any authority not to, of course. Have they given any input on whether they see this as a problem?

Brian Hardy:

We have not contacted the constable's office about this. All of the constables' offices that I have worked with as part of my legal profession will follow the order of the court. If the court looks at these and gives them priority over those other sections, the constables will follow that order with distinction and direction.

Assemblyman Pickard:

You are exactly right. I have had the same issue. The problem I had was when the Las Vegas Metropolitan Police Department took over the Las Vegas constable's role. They seem to be more hesitant about making the judgment call, or being able to insist that the payer exercise priorities. Since I do family law, it is almost always a child support issue, and that remains on the top of the list. I wonder if you had any feedback. I am not concerned with the bill; I think it is a good idea.

Assemblywoman Jauregui:

Is there a percentage of the wages that can be garnished? Is there an amount that you cannot exceed? Is there anything in existing law? We are trying to give precedent to child and spousal support, but if there are other garnishments, is there a portion of the income that cannot be garnished?

Brian Hardy:

There is a percentage, but I do not have that with me. That is statutory and only a percentage can be garnished. We want to give this priority, then the rest of the percentage can come afterward. We leave some percentage amount for the spouse who is making the payments to live on.

Assemblywoman Jauregui:

What if the percentage is not enough to cover the amount of child and spousal support owed?

Brian Hardy:

I want to make sure I understand the question. If there is an income and a percentage amount of that income that needs to be garnished each month, the first part goes to child support. If they cannot make the spousal support payment, then it will wait until later when there is

income again. We cannot guarantee anything since it depends on whatever the income stream is. This just gives them a better opportunity to receive it.

Assemblywoman Cohen:

In family court, you often have multiple families. Section 1, subsection 5, addresses the court giving priority in accordance with provisions of subsection 2 of NRS 31A.160, but can you walk us through what happens when you have multiple families? Oftentimes there is a payer who is paying child support or spousal support to multiple families, so I want to make sure we are considering that. While we want to take care of a family who is owed back child or spousal support, I want to make sure we are considering another family who may be owed child or spousal support, or the payer's family who is currently in the household who needs to have rent paid and food put on the table.

Brian Hardy:

I do not think it will change anything from how it currently stands, which gives priority to child support. If you are talking about children whom he supports for multiple families, the child support for all families would come out first, then spousal support if there is anything left. If there are children from multiple spouses, the children would receive the support first, and then the spousal support that he may owe for one or more spouses would come as a second priority before the creditors.

Assemblywoman Cohen:

I just wanted to make sure we are considering that under our guidelines—we are not forgetting about those multiple family situations to ensure they are taken care of.

Assemblyman Thompson:

I think I heard you say the amount of child support cannot be adjusted. Did you say something like that? This bill does not take away the authority of the judge or hearing master, correct? In some situations, they should have autonomy and discretion to adjust accordingly. Then the children get at least part of the payment until the payer can get the payment back to where it is supposed to be.

Assemblyman Marchant:

In Nevada, the garnishment for child support must be given first priority. I do not think the amount would be changed. I am looking for where it says that.

Assemblyman Thompson:

I was trying to determine if that is what you said. In your opening statement, I thought I heard you say something about that. I wanted to be clear that the judge and the hearing master still have the ability and discretion to adjust it. For example, a gentleman has to pay \$500 a month for child support, but he has been unemployed for a while. He gets a new job and incrementally gets ready to catch up because he wants to be a good father. He does not want to be a "deadbeat dad." He wants to do right by his kids, but he may only be able to pay \$200 a month. I want to be clear that this bill does not go into that territory.

Assemblyman Marchant:

I believe you are right. This bill was designed to help that person give the money to the child instead of creditors. That is the purpose of the bill.

Assemblyman Pickard:

I do not want to testify, but for the benefit of the Committee I will try to shed some light on the process. Typically, when we talk about garnishment orders for child support, this is done through the child support enforcement program through the district attorney's office. This is what we refer to as the Title IV-D program, which is the federally funded program for the collection of child support. The hearing masters will determine, based on a calculation, what an appropriate award would be. They are allowed to deviate for purposes of other families and obligations for child support. Usually, they issue the garnishment order.

It is the intent of the bill to prioritize spousal support underneath child support. This would be done through a separate process. The district attorney's office does not collect on spousal support obligations. They are only authorized to handle child support. This would be a subsequent proceeding for a garnishment order. It would then be up to the payer to determine what the appropriate amount is up to the limits allowed under the garnishment statutes.

Chairman Yeager:

I see no more questions from the Committee, so we will open it for testimony in support of A.B. 119. Please come forward if you wish to testify. I see no one. Is there anyone in opposition to A.B. 119? There is no one, so I will open it for neutral testimony. I do not see anyone, so we will invite Assemblyman Marchant and Mr. Hardy to make closing remarks.

Assemblyman Marchant:

I would like it if all of you voted for the bill. I also want to invite all of you to sign on as cosponsors if you are willing to do so.

Chairman Yeager:

We will close the hearing on Assembly Bill 119. That brings us to the second bill on the agenda. We will open the hearing on Assembly Bill 173.

**Assembly Bill 173: Revises provisions governing the process for a change of name.
(BDR 3-586)**

Assemblywoman Lisa Krasner, Assembly District No. 26:

Today, I am here to present Assembly Bill 173, which will increase the efficiency in the process for changing an adult's name.

Why is it important? Currently, the process for requesting a name change is quite cumbersome and can take months to achieve. In domestic violence cases, a change of name can benefit someone who is fleeing from harm. In this case, time is of the essence in

achieving an identity change. Assembly Bill 173 streamlines the process for receiving a name change.

Current Nevada laws on changing a name provide that an adult may change his or her name by filing a petition with the appropriate district court. The petition must include the applicant's present name, the desired name, the reason for the request, and information indicating whether the applicant has been convicted of a felony. The applicant must obtain a notice that indicates the request for a name change; then post the notice in a general circulation newspaper once a week for three consecutive weeks; then, after the final publication, wait ten days from the last publication of notice. If no written objection is filed and the court is satisfied with the information submitted in the petition, the applicant must go to court. The court will then make an order changing the name as requested.

In section 1 of the measure, the applicant for the name change must include in the petition "... a statement signed under penalty of perjury that the applicant is not changing his or her name for a fraudulent purpose." In section 2 of the bill, the number of times the publication of notice must be posted in a newspaper is reduced from once a week for three consecutive weeks to "... at least one time." Finally, section 3 of the bill clarifies that a court order to change a name will be rescinded if it is discovered that the person submitted the name change for a fraudulent purpose.

I have given each of you one of these tables ([Exhibit D](#)). [She held up a copy of the table.] This illustrates what the other states are doing. A review of the laws in other states shows that the length or necessity of publication of the notice varies, but in a majority of the states, the requirement is none or only one publication.

The cost of posting a legal notice once per week for three weeks is also a concern. In Northern Nevada, the cost is \$231 to post the name change. This measure may reduce the costs by decreasing the number of weeks required for publication. You may be interested to know that there is a provision to keep private the process for a person seeking a name change who is fleeing from an abuser. They do not have to post notice, and yes, there is a process for such cases. However, this bill would add to that scenario by assisting and reducing the time and cost for cases. This could include an abuse situation that has not risen to the level required in *Nevada Revised Statutes* (NRS) 41.280—or does not meet the court's standard of proof.

In closing, I urge your support of this important legislation that will reduce the time it takes to apply for, and potentially receive, a name change. The revised process will provide the court system with a signed statement noting the request for a name change is not for a fraudulent purpose. It will also reduce the time the notice must be published from three weeks to only one time. These changes will ultimately increase the efficiency of the process for changing a name and decreasing costs, and place Nevada in line with the majority of the states.

Assemblyman Thompson:

My question is on section 2, subsection 1, paragraph (b). We were talking and it seems that newspapers are too antiquated to do these circulations. I know you are reducing it to one time, but have you thought that maybe the notice should be on the social Internet or something more technological versus having to do a paper publication? It says, "... some newspaper of general circulation" The question is, Can that be something online as well?

Assemblywoman Krasner:

Currently, when you publish in the physical newspaper, it also publishes in the online version for the same cost.

Assemblyman Thompson:

When we are dealing with the Internet, there is no cost. Is that something that we could look at?

Assemblywoman Krasner:

If the publication or newspaper is considered one that gives adequate notice to the person or persons who wish to be informed of a person's name change, like a creditor, then it would be acceptable. I think the court would have some discretion in that. If you were to say that you will publish in the online version of *The New York Times*, that would probably be fine, but if you said it will be on the online version of Assemblyman Pickard's blog, that would not work.

Assemblyman Elliot T. Anderson:

We have talked about this a lot and I have a different thought. One of the reasons for this is to give notice to creditors, so why would we not just give notice to creditors? When you do a bankruptcy, you figure out who all of your creditors are, and then you mail them a notice of the bankruptcy. Why would we not just mail creditors a notice of the name change?

Assemblywoman Krasner:

While someone who pays a lot of attention to details might go through the process of mailing notice to each of his or her creditors, not everyone would do that. Some people may not even know who all of their creditors are. If they publish in the newspaper, which would also publish online, anyone who considers himself a creditor—even if you do not—would still get that notice.

Assemblyman Elliot T. Anderson:

Actually, I think it is very easy to figure out who your creditors are. You just pull one of your free annual credit reports and they are all listed. There is no duty to report, of course, and creditors may not, so that is not wholly inclusive. We are talking about giving notice to creditors and anyone else who might be affected by a proceeding, so why not just mail them like you do with every other type of service in a court proceeding?

Assemblywoman Krasner:

There might be a creditor who considers himself a creditor, while the person who is applying for the name change does not consider that person a creditor. In that instance, the would-be creditor would still get notice because it is published in both the physical newspaper and the online version of the newspaper.

Assemblywoman Jauregui:

I know that we have heard a lot of name-change bills, so I was curious why this is important to you. Why are you reducing the time from three weeks to one week?

Assemblywoman Krasner:

Originally, I was talking to an organization called the Ridge House. The Ridge House is like a halfway house for men and women. Some of the residents have already been in prison, and others fell on hard times. They are trying to get their life together. One of the things brought up was about women who were leaving an abusive situation, and what they could do if they wanted to change their name. I said I would look into it. When I did, I found relevant sections of NRS 41.270, 41.280, and 41.290. I saw one provision that might help them if they meet the court's standard of proof. If they do not meet the court's standard of proof, reducing it from three times to one time will still help them. It is just one time, so the cost is lower. Of course, it is in line with the majority of the states.

Assemblywoman Cohen:

I have some concerns, and we need to remember that Nevada is somewhat different from other states as we have previously discussed. We have a more transient population, and we need to consider that when we pass legislation about name-change notice publication. Regarding the issues we were just discussing about publications and contacting creditors, the average person may not check the newspaper on a regular basis looking for notices, but I believe creditors do check the newspapers. I mention that to get your response. Have you heard from creditors about this, and is there a concern in the industry? What will it do for creditors and their ability to pursue claims against people who may have fraudulent intent in changing their name?

Assemblywoman Krasner:

I have not heard from any creditors who were concerned about the bill, probably because it still requires that you publish at least one time in a newspaper of general circulation. To address fraudulent intent, I put in the provision that you have to sign under penalty of perjury that you are not changing your name for fraudulent purposes.

Assemblywoman Cohen:

I understand that, but someone who has fraudulent intent will sign the piece of paper but will continue the fraudulent actions. They will not necessarily be worried about perjury. It is part of the continuing process of criminal activity.

Assemblywoman Krasner:

There will always be people in our society who do not follow the laws that this body makes. There will be people who, even though there are laws on the books that say homicide is against the law, will go out and kill someone. There are people who will rape even though it is against the law. There are people who will abuse someone even though it is against the law. It is a concern but no more than any other law that we have on the books.

Assemblywoman Cohen:

Do you know if there is a national database that can be searched that keeps track of name changes? I know there are national credit reporting companies, but is there anything national about name changes? I know that private investigators search databases, but what about regular people and courts? Are there any searchable databases?

Assemblywoman Krasner:

Some of those agencies where you can check your credit report may have something like that, but I do not know if there is a national database that you can check. Maybe the Social Security office?

Assemblyman Watkins:

Do you know of any statistics on the frequency with which we have caught fraud in name changing with the three-week publication? Is there any anticipated impact in lowering it to a week? Are we aware of any statistics where creditors catch people on the second or third week of notification?

Assemblywoman Krasner:

I do not know. I can ask the Legislative Counsel Bureau to look into that and get back to us.

Chairman Yeager:

We will open testimony in support of Assembly Bill 173. I do not see anyone. Is there anyone to speak in opposition to A.B. 173? Again, I do not see anyone. What about anyone neutral? We have one person in Carson City and there is no one down south in Las Vegas.

Barry Smith, Executive Director, Nevada Press Association:

I am neutral because of potential safety for domestic violence victims. I would not want to endanger anyone or make it more difficult. That is the provision that came about in 2003, in section 2 of existing law, that gives the judge discretion. It was specifically for domestic violence victims so the judge could waive the publication requirement. I do not know why three or one would be the magic number. I see on the information on the states ([Exhibit D](#)) that they are all over the map. I do not have a good answer. In my research—and I looked it up on different bills—it has been around since 1869, so I cannot go back to the testimony on it. It has been a long-standing practice and there are many reasons for the publication.

Chairman Yeager:

Is there anyone else in the neutral position on A.B. 173? I do not see anyone, so I will invite Assemblywoman Krasner up for concluding remarks.

Assemblywoman Krasner:

We would appreciate your support on this bill.

Chairman Yeager:

We will close the hearing on Assembly Bill 173. We will open it up for public comment if anyone would like to make a comment on any matter. I do not see anyone approaching the table in Las Vegas, or here in Carson City, so we will close public comment. Is there anything else from the members this morning? I do not see anything. We have a meeting tomorrow morning at 8 o'clock, and we will be hearing three bills. I expect it to be a long hearing. With that, the meeting is adjourned [at 9:43 a.m.].

RESPECTFULLY SUBMITTED:

Karyn Werner
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 119, dated February 20, 2017, presented by Brian R. Hardy, Attorney, Marquis Aurbach Coffing, and prepared for Assemblyman Jim Marchant, Assembly District No. 37.

[Exhibit D](#) is a document titled "Survey of States: Publication of Notice for Adult Name Change," dated March 21, 2017, submitted by Assemblywoman Lisa Krasner, Assembly District No. 26.