

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

**Seventy-Ninth Session
April 13, 2017**

The Committee on Judiciary was called to order by Chairman Steve Yeager at 10:58 a.m. on Thursday, April 13, 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:

None



STAFF MEMBERS PRESENT:

Diane C. Thornton, Committee Policy Analyst
Brad Wilkinson, Committee Counsel
Devon Isbell, Committee Secretary
Melissa Loomis, Committee Assistant

OTHERS PRESENT:

Richard P. McCann, Executive Director, Nevada Association of Public Safety
Officers
April Tatro-Medlin, Private Citizen, Las Vegas, Nevada

Chairman Yeager:

[Roll was called and protocol was explained.] I believe everyone is present. We are going to go into our work session document today. That is all we have on the agenda.

Diane C. Thornton, Committee Policy Analyst:

We have eight bills on work session today. The first bill is Assembly Bill 107, which provides for the sealing of records relating to eviction under certain circumstances. It was sponsored by Assemblywoman Bilbray-Axelrod and heard in this Committee on March 22, 2017.

Assembly Bill 107: Provides for the sealing of records relating to eviction under certain circumstances. (BDR 3-689)

There is one proposed amendment to this measure ([Exhibit C](#)). The mock-up is on the following page. Jon Sasser, Legal Aid Society of Southern Nevada, proposed the amendment. The amendment proposes to automatically seal the eviction case court file in any action for summary eviction if summary eviction is denied or dismissed or the landlord fails to file the affidavit of complaint as required. It also authorizes the court to order the sealing of an eviction case court file under certain circumstances. Last, it defines an "eviction case court file" as "records maintained by the court consisting of the affidavit of complaint and any other pleadings, proof of service, findings of the court, any order made on the motion as provided by the Nevada Rules of Civil Procedure, Justice Court Rules of Civil Procedure and any Local Rules and all other papers, records, proceedings, and evidence, including exhibits and transcript of the testimony."

Chairman Yeager:

At this time, I will take a motion to amend and do pass Assembly Bill 107.

ASSEMBLYMAN OHRENSCHALL MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 107.

ASSEMBLYWOMAN MILLER SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblyman Pickard:

I just wanted to state for the record that I have worked with the sponsor and the various interested parties. I also had a couple of conversations with the judges who actually handle this on a regular basis, and though I suppose, technically, some of the concerns are valid, they are practically unfounded because judges never encounter these issues. With that level of comfort, I am going to change my vote and vote in favor of this bill.

THE MOTION PASSED UNANIMOUSLY.

Chairman Yeager:

Assemblywoman Bilbray-Axelrod, would you please handle the floor statement?

Diane C. Thornton, Committee Policy Analyst:

The next bill on work session today is Assembly Bill 130. It revises various provisions relating to guardianships. It was sponsored by Assemblyman Sprinkle and heard in this Committee on April 10, 2017.

Assembly Bill 130: Revises various provisions relating to guardianships. (BDR 13-524)

The Guardianship Commission proposed an amendment (Exhibit D). The amendment does the following:

- Changes the term "ward" to "guardian."
- Changes the name of the Office of the State Public Guardian to the State Guardianship Compliance Office.
- Clarifies that the State Guardianship Compliance Officer is prohibited from acting as a guardian to any protected person or persons.
- Includes that the notice of sale of the real property of a ward must be published on a public property listing for at least 30 days instead of on a Multiple Listing Service.
- Increases the exemption for estates under \$10,000 and allows for no notice.

Chairman Yeager:

At this time I will take a motion to amend and do pass Assembly Bill 130.

ASSEMBLYMAN PICKARD MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 130.

ASSEMBLYMAN WHEELER SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblywoman Cohen:

I have a technical question. Are we changing the term "ward" to "guardian"? Should we not change it from "ward" to "protected person"?

Brad Wilkinson, Committee Counsel:

It is not a change in the definition itself; the term is just being changed because the written agreement is actually between the attorney and the guardian, rather than between the attorney and the ward. It is not a question of changing the terminology, if that makes sense.

Assemblywoman Cohen:

Yes, thank you.

Chairman Yeager:

I think that change occurs on the first page of the mock-up, when it is talking about written agreements between the attorneys. The concern was that the guardian, not the ward, enters into the written agreement. It is a change for that purpose, not for the entire bill. Again, the motion is to amend and do pass A.B. 130.

THE MOTION PASSED UNANIMOUSLY.

I would like to assign the floor statement to Assemblyman Sprinkle.

Diane C. Thornton, Committee Policy Analyst:

The next bill on work session is Assembly Bill 254, which revises provisions governing guardianships.

Assembly Bill 254: Revises provisions governing guardianships. (BDR 13-595)

The bill was sponsored by Assemblymen Yeager and Sprinkle, and there are no amendments to this measure ([Exhibit E](#)).

Chairman Yeager:

I am looking for a motion to do pass Assembly Bill 254.

ASSEMBLYMAN PICKARD MOVED TO DO PASS
ASSEMBLY BILL 254.

ASSEMBLYMAN WHEELER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

I will take the floor statement for this bill.

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 287 revises provisions governing the issuance of gift certificates.

**Assembly Bill 287: Revises provisions governing the issuance of gift certificates.
(BDR 52-855)**

The bill was heard in Committee on April 3, 2017, and was sponsored by Assemblymen Frierson and McCurdy ([Exhibit F](#)). There are no amendments to this measure.

Chairman Yeager:

I will take a motion to do pass Assembly Bill 287.

ASSEMBLYMAN THOMPSON MOVED TO DO PASS
ASSEMBLY BILL 287.

ASSEMBLYMAN FUMO SECONDED THE MOTION.

Assemblyman Pickard:

After talking to several accountants on this issue, their serious concern is the amount of liability that will be retained by businesses on their books. Therefore, I will be voting no.

Assemblywoman Tolles:

I share that concern. I also had a concern about the question I asked concerning the bill's application to smaller businesses' gift certificates—private piano teachers, for example. I am going to vote no for now.

Assemblyman Watkins:

I will be voting in favor of this measure. I believe the accounting concerns are addressed in the bill, allowing for a \$1 service charge per month. The balance will not be retained on the books indefinitely; it will reduce by \$1 per month.

Chairman Yeager:

Is there any further discussion on the motion? [There was none.] As a reminder, this is a motion to do pass A.B. 287.

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

I will assign the floor statement to Assemblywoman Miller.

Diane C. Thornton, Committee Policy Analyst:

Our next bill on work session is Assembly Bill 288, which revises provisions relating to the protection of older persons and vulnerable persons.

Assembly Bill 288: Revises provisions relating to the protection of older persons and vulnerable persons. (BDR 15-724)

The bill was sponsored by Assemblymen Joiner, Frierson, Benitez-Thompson, Carrillo, and Diaz. It was heard in Committee on March 24, 2017, and there are no proposed amendments to this measure ([Exhibit G](#)).

Chairman Yeager:

At this time, I will take a motion to do pass Assembly Bill 288.

ASSEMBLYWOMAN TOLLES MOVED TO DO PASS
ASSEMBLY BILL 288.

ASSEMBLYWOMAN JAUREGUI SECONDED THE MOTION.

Assemblywoman Tolles:

I want to thank the sponsor of this bill. We have talked about child abuse on several occasions in this Committee, and I really appreciate the emphasis on recognizing that there is also elder abuse. This bill is a very practical and very important solution to this. I just appreciate the sponsor for recognizing that. Despite one's age, abuse is abuse.

THE MOTION PASSED UNANIMOUSLY.

Chairman Yeager:

Assemblywoman Joiner, I will assign you the floor statement.

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 319 revises various provisions governing the guardianship of minors. It is sponsored by Assemblyman Sprinkle ([Exhibit H](#)).

**Assembly Bill 319: Revises provisions governing the guardianship of minors.
(BDR 13-502)**

The Guardianship Commission proposed an amendment. The amendment does the following:

- Authorizes the court to appoint an attorney.
- Allows the attorney reasonable compensation from the estate of the protected minor.
- Prohibits an attorney appointed by the court to represent a protected minor from serving as a guardian ad litem or an advocate.
- Provides when the court is authorized to appoint a guardian ad litem.
- Allows the guardian ad litem reasonable compensation from the estate. The court may order a person that has unnecessarily or unreasonably caused the appointment of a guardian ad litem to pay the state all or part of the expenses associated with the appointment of the guardian ad litem or advocate.
- Clarifies that the investigator may be an employee of the court or another contracted person.

- Provides that the court may order a person that has unnecessarily or unreasonably caused the investigation to pay the court all or part of the expenses associated with the investigation.
- Requires the order appointing a guardian to specify whether the proposed protected minor will require a guardianship after the age of 18.
- Allows the court to waive the requirement of a vacation if the protected minor is the sole devisee or heir of the estate.
- Allows for an exception to selling property of the protected minor only after notice.
- Requires a petitioner to serve the citation for the removal of the guardian.
- Allows rather than requires a hearing to be held within 90 days before a protected minor reaches the age of majority.
- Deletes section 193 of the bill as the chapter applies only to veterans.
- Provides that a resident of Nevada is eligible to have the public guardian of the county appointed if the proposed ward is an adult.

Chairman Yeager:

At this time I will take a motion to amend and do pass A.B. 319.

ASSEMBLYMAN PICKARD MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 319.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

Assemblyman Pickard:

As a quick reminder, this was one of the key parts of the Nevada Supreme Court Commission's efforts to reform the guardianship process. This contains most of the provisions required for the minor guardians, but it goes a little beyond that. As Justice Hardesty mentioned, this—as part of the bigger scheme—is critical to the improvements that we needed to make after the system blew up on us last year.

Assemblyman Wheeler:

I will vote yes out of Committee on this bill, but I want to take a longer, harder look at the fiscal impact. It looks like a pretty big unfunded mandate to me, and I may change my vote on the floor.

Assemblyman Thompson:

Could Legal please clarify the fifth bullet point for me? It is on the cover sheet for the amendments; it is about the guardian ad litem and, I think, compensation.

Brad Wilkinson:

It is pretty much self-explanatory. The amendment adds a provision that says the guardian ad litem can get compensation from the estate of the minor. If the protected minor is indigent, then the court can order that to be paid by the county.

Assemblyman Thompson:

"Guardian ad litem" is another term for a court-appointed special advocate (CASA). Is a CASA the same as guardian ad litem? As a CASA, you are a volunteer. That is where I am having the conflict in my mind. Could someone let me know if this is a different version of a guardian ad litem?

Chairman Yeager:

Assemblyman Pickard, can you shed some light on that?

Assemblyman Pickard:

The CASA is a volunteer and does not have to be an attorney. They are there just to make sure that the wishes of the ward are understood by the court. A guardian ad litem is actually an attorney that will represent the ward in their legal matters with respect to the interest. They do not actually fall into the same set of rules, although they often overlap significantly, but the guardian ad litem must be an attorney and the CASA does not have to be—although they frequently are.

Assemblyman Thompson:

The reason why I was asking is that I am a CASA. I wanted to make sure, because sometimes those terms are used interchangeably. I understand how these terms are referenced now. Thank you, Assemblyman Pickard, for the clarification.

Assemblywoman Miller:

My question is a follow-up to that and comes from experiences that have occurred in my family. If the guardians are allowed to receive compensation from the estate, how do we guarantee protection and guarantee that the ward is not taken advantage of? Who will determine the compensation and set the parameters of what would be acceptable?

Brad Wilkinson:

The court always approves that amount.

Assemblywoman Miller:

I know we are dealing with a different state but are there any boundaries to the court-appointed amounts and to keep this guardian from being from the courts, because I know there was discussion about that before.

Chairman Yeager:

I think when we passed Assembly Bill 130 out of Committee a few minutes ago, that was the comprehensive reform of the guardianship process. You may recall there was some discussion in the first section of that bill and a lot of factors that were put into place. The attorney would have to present them, and then the court would be mandated to consider those factors before awarding any compensation. That particular piece of A.B. 130 would also apply in the juvenile guardianship context; it is just not in this actual bill. It is an

overlay. First, the attorney would have to make a very substantial accounting of the billing, and then the court would have to vet it and decide whether it is reasonable and whether to order payment.

Assemblywoman Miller:

Thank you.

Chairman Yeager:

Is there any other discussion on A.B. 319? [There was none.] Again the motion is to amend and do pass.

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblyman Sprinkle.

Diane C. Thornton, Committee Policy Analyst:

We will move on to Assembly Bill 411. This bill revises provisions governing employment with a department of juvenile justice services. It was sponsored by this Committee and heard on April 5, 2017.

Assembly Bill 411: Revises provisions governing employment with a department of juvenile justice services. (BDR 5-1029)

There is one amendment sponsored by Alex Ortiz, Clark County ([Exhibit I](#)). His amendment revises sections 1 and 2 of the bill with a different approach to authorizing rather than requiring a department of juvenile justice services to terminate the employment of an employee; provides that the applicants may be denied employment when charges are pending against them and employees must be allowed time to correct information or resolve the pending charges; and eliminates section 3 of the bill.

Chairman Yeager:

At this time I will take a motion to amend and do pass Assembly Bill 411.

ASSEMBLYWOMAN JAUREGUI MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 411.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblyman Hansen:

I am going to vote no but hold my right to change my vote on the floor. I have been trying to get hold of the juvenile justice people all day and I have not had any luck. I may change, but I definitely want to hear their opinion on the amendment.

Assemblyman Thompson:

I want to make sure I am clear about Clark County's amendment. Is it saying that if a person has a pending charge that they can be released? Can legal clear this up for me? If so, I cannot support that, because that goes against legislation that I am trying to pass and that would not be proper.

Chairman Yeager:

Could you ask your question again, please?

Assemblyman Thompson:

On the Clark County amendment, where it says, "If an employee has pending charges. . . ." Does that mean that the employee can be released even though it has not been proven that they truly were convicted?

Chairman Yeager:

I think I can probably take that one. As you may recall the law, as drafted now—for the charges that are expressly listed—mandates dismissal of the employee that has pending charges. That is the current state of the law. This amendment seeks, for that specific subparagraph 12, paragraph (a) of subsection 1 of *Nevada Revised Statutes* (NRS) 62G.223, which references a misdemeanor DUI charge, that if this amendment were to pass, the employer would have discretion about whether to release that employee in that circumstance. Keep in mind that as the law stands today, they do not have discretion—they have to terminate. If this amendment were to pass, the employer would have the discretion to keep that employee on while they tried to either correct the information or negotiate the charge. In terms of how it interplays with existing law, this would make the requirement discretionary only in the circumstance of misdemeanor DUI. Does that answer your question?

Assemblyman Thompson:

It does. I know we do not like to say this, but I will vote the measure out of Committee and I will let you know if I will be changing my vote later or not.

Chairman Yeager:

To the extent that it is helpful—and I do not know that we have everyone here in the room—but it is my understanding that when we had the hearing, the parties were still trying to work this out. It is also my understanding that it has been worked out and agreed to by everybody, including the juvenile justice people. Clark County and Mr. McCann are giving me a thumbs-up over there. Everyone, please do your due diligence, but I do think everyone is on board with the amendment as it stands in the work session document.

Assemblywoman Krasner:

I know juvenile justice had some concerns and I was wondering if those issues have been ironed out between the parties.

Chairman Yeager:

Can you just give us a thumbs-up, Mr. McCann, or if you want to come up and make a statement that is fine.

Richard P. McCann, Executive Director, Nevada Association of Public Safety Officers:

We represent the juvenile justice people. There has been another amendment, and we have all agreed to it. In fact, it takes away the obligatory firing of somebody if they have only been charged and, as a matter of fact, we are going to give them time to remedy their situation. There has been a tremendous amount of discussion between Jack Martin, myself, and our people; and I think we have an amendment which everyone has agreed to. It has been provided to the Chairman and the Legislative Counsel Bureau as well, so I think I can give you an absolute thumbs-up that we are all in agreement of the amendment.

Chairman Yeager:

Do you have a copy of the work session document in front of you, by any chance?

Richard McCann:

I have the document.

Chairman Yeager:

Can you confirm that the amendment that is behind the A.B. 411 tab is, in fact, the amendment that was agreed to, and that we have the right amendment there?

Richard McCann:

No, sir.

Chairman Yeager:

It is not the amendment?

Richard McCann:

No. The one that I sent to you a few days ago, the one we have agreed to, is a proposed amendment by Clark County, dated April 11, 2017. This is one that you will note is dated March 31, 2017, by Mr. Ortiz. I believe it was not put on Nevada Electronic Legislative Information System (NELIS) because it was subsequent to the original hearing. I just want the Committee to be aware of the amendment so you are not voting something out that you have not had a chance to look at.

Chairman Yeager:

I think the confusion, Mr. McCann, is there is an amendment back here. In the interest of getting this right, since there was no vote on this we will roll this to tomorrow. My apologies for not having the correct amendment in the document, but we want to make sure that the amendment is correct. Members of the Committee, I will make sure that each of you gets a copy of the amendment before we vote on it, but we will roll this bill to tomorrow morning's work session. Again, my apologies for the confusion.

Diane C. Thornton, Committee Policy Analyst:

Our last bill today is Assembly Bill 476. This bill revises provisions relating to notaries public.

Assembly Bill 476: Revises provisions relating to notaries public. (BDR 19-1163)

The bill was sponsored by the Assembly Committee on Government Affairs on behalf of the Secretary of State ([Exhibit J](#)), and heard in Committee on April 11, 2017. There are no amendments to this bill.

Chairman Yeager:

I am looking for a motion to do pass Assembly Bill 476.

ASSEMBLYMAN WHEELER MOVED TO DO PASS
ASSEMBLY BILL 476.

ASSEMBLYMAN PICKARD SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assemblyman Wheeler, would you mind doing the floor statement on that bill?

That is it for our work session. Is there any public comment before we adjourn?

April Tatro-Medlin, Private Citizen, Las Vegas, Nevada:

I am here today because I would like to ask you not to support Assembly Bill 476, based on section 8 of the bill. I sent the Committee a copy of a notary journal on an assignment of deed of trust for my home. It is not a foreclosure document; I have never received a foreclosure document. As you can see from the journal entry, there is no information that identifies the signer of the document. The document was given to me as part of a qualified written request to my alleged servicer. I also sent another assignment of deed of trust to the Committee. These are California notaries. The second notary has never opened my mail. It has all come back to me and she will not answer her telephone. Both of these notaries' names are listed on robo-signing websites, and basically, there is no way for me to contact them. The first notarized document I sent you is not a certified copy. I cannot get a certified copy because this notary did not renew their commission, but they have not turned in their notary journal to the clerk. The second notary renewed their commission so I have to wait until they end their commission and turn the journal in, because this notary will not respond to me.

Another committee is considering a bill about notarizing leases to show that you should be able to stay on a property. We have no reason to trust notaries at this moment. There has been a lot of robo-signing. I am not saying that everyone is guilty of it, but these documents are vital to proving that the alleged servicer or lender does not have standing to foreclose on my home. There is a lot of fraud in this arena. I would ask that you just change the time

period to quarterly or yearly to turn in their journal entries, so that we are able to tell right away which notaries are not complying with the law, instead of letting so much time go by and not allowing homeowners this tool to find out what is going on with their foreclosure. Thank you.

Chairman Yeager:

Thank you for your comments. Is there any other public comment? [There was none.] I will close public comment.

Members, just so you know, both agendas have been posted tomorrow for Assembly Committees on Judiciary and Corrections, Parole and Probation, and both are listed at the call of the Chair. I do intend to kick off Judiciary at 8 a.m. tomorrow with what is likely to be a substantial work session. Despite the fact that it says at the call of the Chair, I would ask you all to be here at 8 a.m. and we will try to get through all the bills we need to get through as expeditiously as possible. Likely, at some point during the day, we will be doing a Corrections, Parole and Probation work session as well. My advice for tomorrow: after we recess in the morning, make sure to talk to your attachés and have them check email for you, because at some point we will probably need to get back together as a committee after the morning session. I know there are a lot of other committees going on, but keep in contact. We are adjourned [at 11:27 a.m.].

RESPECTFULLY SUBMITTED:

Devon Isbell
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 Work Session Document for [Assembly Bill 107](#), dated April 5, 2017, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit D](#) is a Work Session Document for [Assembly Bill 130](#), dated April 12, 2017, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit E](#) is a Work Session Document for [Assembly Bill 254](#), dated April 12, 2017, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit F](#) is a Work Session Document for [Assembly Bill 287](#), dated April 12, 2017, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit G](#) is a Work Session Document for [Assembly Bill 288](#), dated April 12, 2017, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit H](#) is a Work Session Document for [Assembly Bill 319](#), dated April 12, 2017, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit I](#) is a Work Session Document for [Assembly Bill 411](#), dated April 12, 2017, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit J](#) is a Work Session Document for [Assembly Bill 476](#), dated April 12, 2017, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.