

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Seventy-ninth Session  
May 2, 2017**

The Senate Committee on Judiciary was called to order by Chair Tick Segerblom at 1:36 p.m. on Tuesday, May 2, 2017, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Tick Segerblom, Chair  
Senator Nicole J. Cannizzaro, Vice Chair  
Senator Moises Denis  
Senator Aaron D. Ford  
Senator Don Gustavson  
Senator Michael Roberson  
Senator Becky Harris

**GUEST LEGISLATORS PRESENT:**

Assemblyman Keith Pickard, Assembly District No. 22  
Assemblyman Steve Yeager, Assembly District No. 9

**STAFF MEMBERS PRESENT:**

Patrick Guinan, Policy Analyst  
Nick Anthony, Counsel  
Connie Westadt, Committee Secretary

**OTHERS PRESENT:**

Neal Tomlinson, Probate and Trust Law Section, State Bar of Nevada  
Julia S. Gold, Cochair, Probate and Trust Law Section, State Bar of Nevada  
Alan D. Freer, Cochair, Probate and Trust Law Section, State Bar of Nevada  
Chris Ferrari, American Research Bureau  
John J. Cahill, Public Administrator, Clark County

Lynne D. Foster, Chief, Compliance, Division of Health Care Financing and Policy, Department of Health and Human Services  
Kim Surratt, Family Law Section, State Bar of Nevada  
Melissa Exline, Nevada Justice Association  
Mindy McKay, Records Bureau Chief, General Services Division, Nevada Department of Public Safety  
Erica Souza-Llamas, Criminal History Repository Manager, General Services Division, Nevada Department of Public Safety  
Ben Graham, Administrative Office of the Courts, Nevada Supreme Court  
Paul C. Deyhle, General Counsel and Executive Director, Commission on Judicial Discipline

CHAIR SEGERBLOM:

I will open the hearing on Assembly Bill (A.B.) 314.

**ASSEMBLY BILL 314 (1st Reprint)**: Revises various provisions relating to estates. (BDR 2-738)

ASSEMBLYMAN STEVE YEAGER (Assembly District No. 9):

This bill comes from the Probate and Trust Law Section of the State Bar of Nevada. We spent considerable time vetting this bill in the Assembly.

NEAL TOMLINSON (Probate and Trust Law Section, State Bar of Nevada):

There are two proposed conceptual amendments: one is from Marta Jensen, the Acting Administrator of the Division of Health Care Financing and Policy ([Exhibit C](#)), and the other is from John J. Cahill, the Public Administrator of Clark County ([Exhibit D](#)). We do not oppose these amendments.

JULIA S. GOLD (Cochair, Probate and Trust Law Section, State Bar of Nevada):

This bill only adds two sections; the rest of A.B. 314 clarifies existing law. Assembly Bill 314 attempts to clarify ambiguities attorneys find in existing law when they are in court or when they encounter prolonged litigation. We want there to be less of an impact on the courts.

This bill was vetted by each section of the State Bar. Afterward, the Board of Governors approved A.B. 314 to go through as a Probate and Trust Law Section bill.

I submitted a summary of A.B. 314 to the Committee ([Exhibit E](#)).

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CHAIR SEGERBLOM:

Are you okay with Mr. Cahill's amendment, which extends the period for heir finders to one year?

MS. GOLD:

Yes.

SENATOR HARRIS:

My concerns with heir finders and the Public Administrator have been addressed.

ALAN D. FREER (Cochair, Probate and Trust Law Section, State Bar of Nevada):

We are basically streamlining the probate process by giving the courts more discretion and authority and clarifying processes. With respect to the second half of this bill, the only substantive law change is contained in section 39, which allows purpose trusts to be created. Typically, beneficiaries must be people, but section 39 includes purpose trusts, which are largely used for long-term building or property maintenance.

CHAIR SEGERBLOM:

What was done before purpose trusts?

MR. FREER:

An individual would need the discretion of a trustee, and that individual would use particular language such as "apply to or for the benefit of the beneficiary." Court approval would sometimes be required, leading to the lengthy process of a court allowing a distribution for the benefit of a particular trustee, as in the case of property maintenance. Otherwise, the property would need to be owned by the trust, and there would still need to be a beneficiary attached to the property.

CHRIS FERRARI (American Research Bureau):

We oppose Mr. Cahill's proposed amendment, which would amend section 12 to change the time frame for heir finders from 90 days to 1 year. The 90-day precedent, let alone the 1-year precedent, is found nowhere in the U.S. Nevada is the only state that chooses to do this. The Public Administrator looked to increase the time frame six years ago, but the Legislature rejected the Public Administrator's bill at that time. Heir finders are not fly-by-night operators; they conduct professional operations. If a stock, property or other

asset is involved, its value could fluctuate significantly in the proposed one-year time frame. We want to maintain the current 90-day time frame. To purport there should be a law precluding somebody from using a service he or she feels is in the best interests of his or her well-being seems to be counterproductive.

JOHN J. CAHILL (Public Administrator, Clark County):

A lot of things have changed in the probate process since 2011, which is when I originally proposed the one-year period.

CHAIR SEGERBLOM:

Do you still believe the one-year period is appropriate?

MR. CAHILL:

Absolutely. The one-year period is necessary. Public administrators need time to find the heirs. Finding the heirs allows families to avoid signing contracts that would cost them a lot of money.

LYNNE D. FOSTER (Chief, Compliance, Division of Health Care Financing and Policy, Department of Health and Human Services):

I will read from neutral testimony prepared by the Division of Health Care Financing and Policy ([Exhibit F](#)).

CHAIR SEGERBLOM:

Did the Division propose an amendment?

MS. FOSTER:

I thought you were calling for neutral testimony, not discussion on the amendment.

CHAIR SEGERBLOM:

That is not what I am saying. Are you opposing this bill even with the Division's proposed amendment? I am trying to figure out if the Division is okay with this bill and the amendment.

MS. FOSTER:

We would like Medicaid estate recovery to be exempted from the provisions of this bill.

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CHAIR SEGERBLOM:  
Does the amendment add the exemption?

Ms. FOSTER:  
Yes.

CHAIR SEGERBLOM:  
Are you okay with this bill?

Ms. FOSTER:  
Yes.

KIM SURRATT (Family Law Section, State Bar of Nevada):  
We are neutral to this bill. The Probate and Trust Law Section worked with the Family Law Section of the State Bar. There are provisions in this bill dealing with community property, and we worked together on this language. The Family Law Section is neutral because most of this bill is outside the scope of what we do, but we are okay with the provisions that relate to family law.

CHAIR SEGERBLOM:  
I will close the hearing on A.B. 314 and open the hearing on A.B. 102.

**ASSEMBLY BILL 102 (1st Reprint)**: Revises certain provisions relating to the proper venue in civil actions. (BDR 2-591)

ASSEMBLYMAN KEITH PICKARD (Assembly District No. 22):  
Existing law provides that parties of a domestic case such as divorce may legally file their suit in any county of the State. This ability affords litigants certain cost and time advantages. For example, a couple with children in Clark County seeking a divorce who have agreed to all of the terms of the divorce and child custody could submit a joint petition in Nye County or any other county. This allows litigants to avoid higher filing fees and parenting classes. However, when a problem arises, the divorced individuals are required to return to the original court to resolve the issue.

Under existing law, the distant county judge could deny a request to change the venue and require litigants, sometimes with their children and witnesses, to travel to the original court to resolve the case. Assembly Bill 102 seeks to reduce the impact on litigants by allowing a court to remove a civil proceeding

to a court in a different county. This bill also allows the respondent to request in writing, before the filing time expires, that a motion be heard in a different county. The proceeding may be removed either by consent of both parents or by order of the court.

This bill takes into consideration the best interests of the children involved by allowing the action to be transferred to where the children reside. In many domestic cases that involve children, something will come up after the divorce requiring court intervention.

CHAIR SEGERBLOM:

Is a new action filed in the county where a case is being transferred to? How are cases transferred?

MELISSA EXLINE (Nevada Justice Association):

This bill allows for a clear procedure for transferring cases. Typically, a motion to change venue is filed in the county where the case is.

CHAIR SEGERBLOM:

I understand that. What is filed in the other county?

Ms. EXLINE:

A ruling has to occur in the original county before the case is transferred. If a litigant tries to move a case from one county to another, he or she would not be able to.

CHAIR SEGERBLOM:

How would the process work under this bill?

Ms. EXLINE:

The way this bill is structured, the parties can file a stipulation. Once the order is issued following the stipulation, the case would be able to be moved to another county.

CHAIR SEGERBLOM:

The stipulation is filed in the original county, but what is filed in the other county?

Ms. EXLINE:

The order has to transfer through an internal change of venue mechanism. It is a backchannel process I am not entirely sure about. There is simply an order issued by the new court saying the venue change has been received. Section 1, subsection 1, paragraph (b) of this bill allows a family law case to be similar to a civil case in that a litigant can demand a change of venue as a matter of his or her legal rights. If all the parties are not present in the original county, then the case can be moved.

CHAIR SEGERBLOM:

The case would be filed in the new county, correct?

Ms. EXLINE:

Yes.

Ms. SURRETT:

Part of the change of venue process is waiting for the physical file to transfer from one court to the next. The litigant would receive notice this has occurred, and that litigant could file whatever it is he or she wanted to file in the new court.

CHAIR SEGERBLOM:

Under this bill, would the court have to move the case if a stipulation were filed?

Ms. SURRETT:

Yes. Historically, judges have been unwilling to move cases. The existing statute was developed for civil cases, but family law is a different beast. The issue of transferring a case has occurred in a variety of family law cases across the State, especially in situations where people are moving from the north to the south or vice versa. This bill was vetted by the Family Law Section of the State Bar, which means every other section vetted this bill, too.

ASSEMBLYMAN PICKARD:

In an existing case, we file, order for the transfer of venue and then file that order with the new county. Once the case is filed in the new county, we can file subsequent motions.

SENATOR HARRIS:

I was concerned about the ability to abuse the venue change. One parent may be more economically stable than the other. This bill limits venue changes to where the parties reside or where the children reside, so this is not a forum-shopping issue.

Is a judge going to look at economic stability and hardship when granting a venue change? If one parent experiences economic hardship but has custody of the child, will the judge have discretion to select a venue more reasonable for that parent than the other? How are these discrepancies resolved?

MS. SURRETT:

Because of the way this bill is drafted, it is not a forum-shopping issue. In the situation you brought up, the case would be moved to the more convenient forum. The court would perform an analysis similar to analyses performed in other cases. Convenience of the witnesses, where the evidence is and other factors would be considered by the judge. Right now, a divorce filing or custody action stays at its original court forever, but sometimes neither party resides in the original county. A huge part of the problem has stemmed from paralegal document preparation services across the State that have intentionally drafted their documents to be filed in Nye County in the south or in the Consolidated Municipality of Carson City in the north. These services do so for cheaper filing fees, avoidance of certain procedures that take place in larger counties and less judges screening the documents.

SENATOR HARRIS:

Because of the longevity of a family law filing, it only makes sense for a court close to the child or where both of the parties reside to take over the case. We are a fluid society, so I like that portion of A.B. 102. I wanted to make sure there was no ability for gamesmanship.

ASSEMBLYMAN PICKARD:

Section 1, subsection 1, paragraph (b), lines 20 and 21 specifically include the language "or in the county where the child who is the subject of the proceeding resides." The children come first.

MS. EXLINE:

The intent of this bill is to address some of the odd situations we run into, such as when neither party has ever lived in a particular county. The courts have a



difficult time doing what they feel makes sense in such circumstances. Courts do not have the tools under the statutes to allow for the transfer of cases. This bill allows courts to look at the circumstances, determine what makes the most sense considering those circumstances and hear both arguments if there is disagreement. Because this bill allows for stipulation, litigants can proceed with their arguments more efficiently. Previously, litigants might have been stuck in a venue argument on top of a custody argument, visitation argument or something else.

Courts deal with a large amount of cases with limited resources. This bill allows the courts to get to the heart of the disputes instead of being stuck in procedural venue issues. Assembly Bill 102 is not giving an advantage to one side or the other. This bill allows arguments to be heard, gives courts the tools they need to address the issues and allows the courts to get to the substantive issues between the parties.

ASSEMBLYMAN PICKARD:

We do not want to suggest the judges in these courts, particularly those in rural areas, are being difficult. These judges are trying to do the right thing, but they are trying to live by the statutes. Assembly Bill 102 is an effort to give courts the tools they need to make the process easier on the children involved.

I urge the Committee to pass A.B. 102.

MS. SURRETT:

The Family Law Section is excited about this bill.

CHAIR SEGERBLOM:

I will close the hearing on A.B. 102 and open the hearing on A.B. 14.

**ASSEMBLY BILL 14 (1st Reprint)**: Requires the submission of a complete set of fingerprints with certain petitions and court orders relating to a legal name change and citations for domestic violence. (BDR 3-172)

MINDY MCKAY (Records Bureau Chief, General Services Division, Nevada Department of Public Safety):

The General Services Division houses the Central Repository for Nevada Records of Criminal History. The Repository maintains statewide records of arrests and dispositions. We propose A.B. 14 in an effort to ensure legal name changes are

based on complete sets of individuals' fingerprints. Currently, *Nevada Revised Statutes* (NRS) 41.270 requires the Repository to include a legal name change in a person's record of criminal history without a requirement to accompany the order with fingerprints.

Section 1 of this bill proposes that if an applicant for a name change has a criminal history record, that individual's complete set of fingerprints must accompany the petition and be taken in a manner prescribed by the Director of the Department of Public Safety. Criminal history records at the Repository are fingerprint-based. When we receive court orders to change names, the only way we can be 100 percent sure the subject of the order is the person whose record we are changing is through fingerprint submission.

Section 2 seeks to amend NRS 171.1229 to require a complete set of fingerprints, in lieu of taking a person before a magistrate, for any violation of county, city or town ordinance or State law that constitutes domestic violence for which a citation is issued. Currently, NRS 171.1229 allows a peace officer to obtain not less than one fingerprint for domestic violence citations. In order for the Repository to create a criminal history record or append a citation to an existing criminal history record and then forward the citation to the FBI, a full set of fingerprints is required.

We want to ensure a fingerprint-based criminal history record can be established in the Nevada Criminal Justice Information System for nationwide information-sharing and for public and officer safety. Additionally, having a fingerprint-based criminal history record available for criminal justice agencies to access allows the proper penalties to be applied for subsequent offenses of crimes of domestic violence. The third domestic violence violation becomes a felony pursuant to NRS 200.485. Applying the proper penalties is especially critical given the seriousness of the crime, not only for each victim's safety but also for officer safety.

We understand that field officers issuing citations may not have fingerprint machines. Therefore, we will work with the impacted agencies to develop an acceptable and efficient process by which fingerprints can be captured and submitted to the Repository.

I request the Committee's support of A.B. 14.

CHAIR SEGERBLOM:

Did the Division decide it wanted to start obtaining fingerprints?

Ms. MCKAY:

Criminal history records at the Repository are fingerprint-based. Statute allows law enforcement agencies to cite domestic violence violations. Citations are not normally fingerprint-based. In order for us to capture those citations, they have to be fingerprint-based.

CHAIR SEGERBLOM:

Is this your decision?

Ms. MCKAY:

Yes.

CHAIR SEGERBLOM:

Are you saying fingerprints need to be submitted for a name change as long as there is a felony on a person's record?

Ms. MCKAY:

We would like fingerprints to accompany name changes for every applicant who has a criminal record. The proposed amendment uses the term "criminal record"; a felony is not specified. In order for us to ensure an applicant's name change is appended to his or her actual criminal history record, we would need fingerprints because the record is fingerprint-based.

CHAIR SEGERBLOM:

If somebody wanted to change his or her name, would that person have to submit a form saying he or she has committed a crime?

Ms. MCKAY:

The way this bill is written, a full set of fingerprints would accompany the name change through the court.

CHAIR SEGERBLOM:

Does this provision apply to everybody seeking a name change?

Ms. MCKAY:

It applies to anybody who has a criminal history record.

CHAIR SEGERBLOM:

How does one know if an applicant for a name change has a criminal history record?

Ms. MCKAY:

It depends on the honesty of the applicant.

CHAIR SEGERBLOM:

Is there a question in the name change application asking the applicant to provide his or her criminal history record?

Ms. MCKAY:

The Second Judicial District Court's name change application asks if the applicant has ever been convicted of a felony. We will work with the courts to update their forms if they want to.

SENATOR HARRIS:

What is going to happen to juveniles with criminal history records who later become adults?

Ms. MCKAY:

We do not capture the fingerprints of juveniles.

SENATOR HARRIS:

Are fingerprints going to be captured for adults with juvenile criminal history records? Are their juvenile records going to be looked at?

Ms. MCKAY:

If somebody with an adult criminal history record applies for a name change, then that person should be submitting fingerprints with his or her name change application.

SENATOR HARRIS:

Would an adult with a juvenile criminal history record but not an adult record be required to submit fingerprints?

Ms. MCKAY:

No. We do not house juvenile criminal history records at the Repository.

SENATOR HARRIS:

How does an adult with a juvenile criminal history record but not an adult record answer the question about felony conviction on the name change application?

Ms. MCKAY:

I would refer that question to the courts. I am not sure what the process is with that. I do not know what the courts do to vet applicants' documents. I would be happy to figure that out for you if you would like.

SENATOR HARRIS:

I would like that information.

Is anybody going to actively search for criminal history records for name change applicants, or are we simply going to rely on people's self-representation?

Ms. MCKAY:

When an applicant goes to the court to petition for a name change, and if he or she answers yes to the question asking for a criminal history record, then that individual should be submitting fingerprints. When the court submits the individual's fingerprints to us with the court order for the name change, our staff takes the fingerprints and searches for a criminal history record to make the change. If the applicant does not admit to having a criminal history record, then that individual is not going to submit fingerprints.

SENATOR HARRIS:

Nobody is going to actively search for criminal history records.

Ms. MCKAY:

We will not.

CHAIR SEGERBLOM:

Are you saying there is currently no mechanism to obtain fingerprints when giving domestic violence citations, but you are working with law enforcement agencies to develop such a mechanism?

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ERICA SOUZA-LLAMAS (Criminal History Repository Manager, General Services Division, Nevada Department of Public Safety):  
Existing statute requires one or more fingerprints for domestic violence citations.

CHAIR SEGERBLOM:

Ms. McKay said fingerprints were not taken when a domestic violence citation was given.

Ms. SOUZA-LLAMAS:

To my understanding, not many domestic violence citations are issued in the field. When they are issued, officers carry ink pads in their patrol cars and obtain one or more fingerprints. Sometimes we get one fingerprint image, but sometimes we get ten.

CHAIR SEGERBLOM:

How would A.B. 14 change that process?

Ms. SOUZA-LLAMAS:

This bill requires a full set of fingerprints instead of one or more.

CHAIR SEGERBLOM:

This bill was conceived by your Division as opposed to some other criminal justice agency, correct?

Ms. SOUZA-LLAMAS:

Correct. Our fingerprint identification system and the FBI both require a full set of fingerprints.

CHAIR SEGERBLOM:

It concerns me that an administrative agency is requiring this kind of information and asking the Legislature to pass a law as opposed to a district attorney or an Attorney General doing so.

I will close the hearing on A.B. 14 and open the hearing on A.B. 28.

**ASSEMBLY BILL 28 (1st Reprint)**: Revises provisions relating to the Commission on Judicial Discipline. (BDR 1-395)

BEN GRAHAM (Administrative Office of the Courts, Nevada Supreme Court):  
This bill deals with a specific situation. We have limited jurisdiction judges who are not law judges and are not subject to State Bar requirements. Sometimes these judges do not go through the required education to continue their positions. Assembly Bill 28 gives authority to the Commission on Judicial Discipline to direct these judges to take the required courses. In the event a judge did not take the required courses, and there was no good reason why he or she did not take them, there are disciplinary actions that could be taken.

PAUL C. DEYHLE (General Counsel and Executive Director, Commission on Judicial Discipline):

If a justice of the peace or a municipal court judge does not attend the mandatory instruction, statute requires forfeiture from office. There are no due process protections. The Commission could simply remove the judge from office based on language in chapters 4 and 5 of NRS. Assembly Bill 28, as amended, would provide the judge with a 30-day notice of intent to forfeit office, an opportunity to respond and a hearing before the order is issued.

CHAIR SEGERBLOM:

I will close the hearing on A.B. 28 and open the hearing on A.B. 38.

**ASSEMBLY BILL 38 (1st Reprint)**: Revises provisions relating to bail. (BDR 14-399)

MR. GRAHAM:

Assembly Bill 38 initially came out of the limited jurisdiction courts. This bill deals with notification to bail bond agents who have posted bail for defendants to appear as requested for judicial proceedings. Existing law requires certified letters in the mail to notify individuals they have not shown up or the bail may be forfeited. We have worked carefully with Assembly members and a number of people from the bail bond industry to shorten the amount of time during which an arrest warrant is issued. This bill also allows the use of electronic notification. About 180 to 185 agencies can write bonds in Nevada. Each agency has the ability to receive electronic notification. Bail bond agencies can request to receive mail-only notification by April 1, 2018. This bill will not save a lot of money, but it will save tens of thousands of dollars over a year.

CHAIR SEGERBLOM:

I will close the hearing on A.B. 38.

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CHAIR SEGERBLOM:  
I adjourn the meeting at 2:22 p.m.

RESPECTFULLY SUBMITTED:

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Daniel Putney,  
Committee Secretary

APPROVED BY:

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Senator Tick Segerblom, Chair

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



<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit / # of pages</b>		<b>Witness / Entity</b>	<b>Description</b>
	A	2		Agenda
	B	4		Attendance Roster
A.B. 314	C	1	Neal Tomlinson / Probate and Trust Law Section, State Bar of Nevada	Proposed Amendment of Marta Jensen of the Division of Health Care Financing and Policy of the Department of Health and Human Services
A.B. 314	D	4	Neal Tomlinson / Probate and Trust Law Section, State Bar of Nevada	Proposed Amendment and Supplemental Materials of John J. Cahill, Public Administrator of Clark County
A.B. 314	E	6	Julia S. Gold / Probate and Trust Law Section, State Bar of Nevada	Executive Summary
A.B. 314	F	2	Lynne D. Foster / Division of Health Care Financing and Policy, Department of Health and Human Services	Written Testimony