

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-ninth Session
May 12, 2017**

The Senate Committee on Judiciary was called to order by Chair Tick Segerblom at 12:15 p.m. on Friday, May 12, 2017, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E 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 Elliot T. Anderson, Assembly District No. 15
Assemblywoman Daniele Monroe-Moreno, Assembly District No. 1

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Nick Anthony, Counsel
Pat Devereux, Committee Secretary

OTHERS PRESENT:

David Cherry, City of Henderson
Mandy Shavinsky, MGM Resorts International
Kermitt L. Waters
Rick McCann, Executive Director, Nevada Association of Public Safety Officers;
Nevada Law Enforcement Coalition

Senate Committee on Judiciary
May 12, 2017
Page 2

Michael Sean Giurlani, President, Nevada State Law Enforcement Officers Association
Jack Martin, Director, Department of Juvenile Justice Services, Clark County
Lynn Goya, Clerk, Office of the County Clerk, Clark County

CHAIR SEGERBLOM:

We will open the hearing on Assembly Bill (A.B.) 380.

ASSEMBLY BILL 380 (1st Reprint): Revises provisions relating to real property.
(BDR 10-340)

ASSEMBLYMAN ELLIOT T. ANDERSON (Assembly District No. 15):

Assembly Bill 380 revises provisions related to easements. It will prevent backdoor eminent domain takings, reduce uncertainties for businesses and encourage development. Some major Nevada employers are concerned about losing the right to their private property. They have opened up and developed their properties into a replication of a pedestrian experience, which often looks like a public thoroughfare, on The Strip and in outdoor malls, particularly in Clark County. Assembly Bill 380 will reduce risks and provide legal certainty to those companies and prevent implied eminent domain theories that may punish the development of private property.

I will demonstrate how property law works with this bundle of sticks. When there is full ownership of land, you have the entire bundle. For example, I am the record owner of my Las Vegas condominium and have all the sticks. To purchase my condo, I extemporaneously granted the deed of trust—my mortgage—to a credit union and lost a stick to it. My condo is part of a homeowners' association (HOA) which operates through covenants attached to the land. This means the covenants apply to the property regardless of who owns it. Before I moved in, another stick had gone to the HOA.

Not having full control over your property can be unsettling, especially if you are fined for not mowing your grass because of the stick lost to the HOA before you even owned the land. Easements are another form of stick you can give up, grant or lose by implication. Express easements are rights related to land, often for utility workers to cross private property. *Nevada Revised Statutes* (NRS) specifically provide for conservation and solar easements. Express easements require a written instrument, whereas implied easements may arrive as a matter

of caselaw. Implied easements are, by necessity, by implication and by prescription. Implied easements are elevated into law when certain facts rise.

Assembly Bill 380 prevents implementation of a new theory of implied easements from California ([Exhibit C](#)). I modeled the bill after California code sections related to public easements. California has implied public easements that operate similarly to prescriptive easements. This is known as adverse possession of one of the sticks. In adverse possession, there is hostile use of the entire bundle of sticks, which is stripped from the property owner. Hostile use of an easement involves just one stick. While adverse possession and prescriptive easements are related concepts, they differ in the terms of the property taken away during the easement period.

Assembly Bill 380 seeks to prevent owners of real property from losing part of their bundle of sticks and reduce unsettled concerns over the theory of implied easements. Section 1 allows a property owner to record a notice of the grant of permission for the public to use his or her property. In court, notice will be deemed conclusive evidence that the use is permissive and an easement cannot be implied through hostile use.

This formal grant and recording cuts off a key element in establishing a prescriptive easement or adverse possession: hostile or adverse uses of property. The notice will protect property owners from anyone establishing an easement going forward while not affecting any vested rights created prior to posting of the notice.

Section 1, subsection 4 of A.B. 380 clarifies permission may be made conditional and that recording permission is not an all-or-nothing proposition. Section 2 provides such notices must be accepted by counties as a recording subject to the standard conditions. Section 3 amends the limitations of action section to NRS 11 and adds a new subsection protecting property owners from lawsuits over prescriptive easements as long as notices were properly posted. Section 3, subsection 2 provides that after October 1 if a property owner opens his or her land to the public, only an express written grant of easement may confer permanent right for the use of the land.

Section 3, subsection 3 clarifies respective rights of a governmental entity and a private property owner if the entity has improved or is maintaining the property. This is a policy-based exception to a major narrowing of rights of local

governments to protect the public, who may be relying on the visible improvements. The section only applies if the owner opens the land to public use.

I will discuss the caselaw relating to section 3, subsection 3. In *Groso v. Lyon County, Nev.*, 100 Nev. 522 (1984) ([Exhibit D](#)), the Nevada Supreme Court confronted the question of whether a local government had established a prescriptive easement. A road was used by Lyon County for 70 years, and the Court applied the law of prescriptive easements as if it were private property. The case represents the proposition that local governments may step into the shoes of a private property owner and obtain a prescriptive easement just like any other citizen. The Court applied the five-year limitation period, which is the same for all other prescriptive easements in the State.

There has been discussion as to whether the bill would be applicable to *White Pine Lumber Co. v. City of Reno*, 106 Nev. 778 (1990) ([Exhibit E](#)). The City of Reno gave conditional approval to a condo development based on dedication of all of the developer's land. The City said, "Give us the whole bundle of sticks, or we will not approve your development." The question confronted by the Court was whether the catchall statute of limitations provision in NRS applied to a takings claim of four years. Instead, the Court analogized to the adverse possessions statute of limitations of 15 years without payment of taxes. Because the City took the entire bundle of sticks, rather than just one like in *Groso v. Lyon County*, the Court applied the 15-year period.

White Pine Lumber Co. does not stand for the proposition that the 15-year period applies to any situation in which hostile use leads to a property right, whether an easement or adverse possession. The City held a gun to the head of a developer and said, "Give us your entire property, or we won't approve your project." In *Groso*, the Court applied the five-year period for local governments. Section 3, subsection 3 does not abrogate, overrule or change the Court's holding in *White Pine Lumber Co.*

Section 3, subsection 4 allows cities or counties to adopt ordinances governing the size, placement and contents of signs posted by owners to grant permission. There are two proposed amendments ([Exhibit F](#) and [Exhibit G](#)) from the City of Henderson that narrow the language of A.B. 380 to ensure the situations in it are finely tailored. It is important to not create unintended

consequences. I am trying to encourage development by protecting property rights.

The bill has slivers of policy-based exceptions, such as section 3, subsection 3, to ensure externalities that go beyond Clark County are not excessive. If local governments build roads on private land, and the public relies on them but the property owners do not go to court under the normal prescriptive period, suddenly homeowners are relying on the roads. I am not seeking to change the prescriptive easement law. The Court has struck a tricky balance with prescriptive easements: if you wait too long and say nothing, the rest of the community will rely on the property in the absence of enforced rights.

CHAIR SEGERBLOM:

Other than the issues in section 3, subsection 3, are the amendments, [Exhibit F](#) and [Exhibit G](#), acceptable to you? Where does current NRS stand in relation to the goal of section 3, subsection 3?

ASSEMBLYMAN ANDERSON:

Section 3, subsection 3 speaks to visible improvements like roads or sidewalks that would be more conducive to an easement. Existing NRS relating to easements apply. One could ask, if that is the law, what is the reason for the subsection? To the extent I am abrogating caselaw, I am narrowing existing rights of local governments based on agreed-upon language in A.B. 380. To the extent that I am changing NRS as it relates to implied theory I am trying to circumvent, I want to ensure as a policy matter that current NRS relating to prescriptive easements will not be affected by unintended consequences from A.B. 380.

Section 3, subsection 3 seeks to ensure that if property owners who should have known a visible improvement was being made to their land, they should say something. There is a lot of development going on across Nevada, so we need to ensure policy-based exceptions are protected.

CHAIR SEGERBLOM:

Did you say section 3, subsection 3 merely reiterates current law?

ASSEMBLYMAN ANDERSON:

Yes, but it needs to read as a specific exception to general rules contained in the rest of section 3. Section 3, subsections 1 and 2 vastly restrict what local

governments can do, while subsection 3 exists to maintain a sliver of the unaffected existing NRS. We need to ensure the externalities do not affect people relying on roads and sidewalks that property owners failed to object to within five years.

CHAIR SEGERBLOM:
How do subsections 1 and 2 change NRS?

ASSEMBLYMAN ANDERSON:
Their language tightens NRS to change easements as they relate to owners of private land who open it for public use. Other language proposed in the amendments from the City of Henderson, [Exhibit F](#) and [Exhibit G](#), would apply to situations in which pedestrian malls have developed, like Town Square in Las Vegas, The District in Henderson, The Link on The Strip and the T-Mobile Arena. The additional language will shut off easements in those circumstances.

CHAIR SEGERBLOM:
Subsections 1 and 2 basically provide that, let us say, I am the property owner who built T-Mobile Arena and have a walkway from a road into it. Even if the walkway has been used for 20 years, there is no prescriptive easement. Is that correct? Is that existing law?

ASSEMBLYMAN ANDERSON:
Yes, there is no easement. The bill vastly protects property rights and prevents easements from being developed in locations like T-Mobile Arena.

CHAIR SEGERBLOM:
Is that private people establishing easements on private land?

ASSEMBLYMAN ANDERSON:
Yes. The bill provides balance for the community if a road or sidewalk was accidentally built on someone's property by mistake. After five years, it would be inequitable to say the public could not use it.

CHAIR SEGERBLOM:
Under existing law, if the government builds a road through my property, if I do not object within five years, the government can claim an easement.

ASSEMBLYMAN ANDERSON:

Yes. *Groso v. Lyon County* is the caselaw for that authority. The way the takings clause works is you have a five-year period in which to file an inverse condemnation claim. The takings clause is provided for by the Fifth Amendment of the U.S. Constitution, regardless of NRS.

SENATOR HARRIS:

Let us say a landowner has land from which the local government would benefit by having public access to it. The landowner posts the proper signage. If the government wants to use public funds to make physical improvements on the land, what if the government no longer wants to maintain the improvements? What is the exit strategy to remove the improvements if the landowner does not want to maintain them?

ASSEMBLYMAN ANDERSON:

That would depend on the improvement. Some would be easier to change than others. A sidewalk or road would be harder to remove than other things.

SENATOR HARRIS:

Is your intent that the entity that made the improvement and then abandons it will have to remove it? If it is a public thoroughfare, but the landowner maintains his or her right to keep the land, people who have been using the land would think they could still use it.

ASSEMBLYMAN ANDERSON:

The five-year objection period would operate similarly to a prescriptive easement as normally interpreted. If the use stops being continuous after the five years, the right would not attach.

SENATOR HARRIS:

Do private property owners have the right to force the local government to remove its improvements for public safety so the owners are not subject to liability?

ASSEMBLYMAN ANDERSON:

The onus is on the property owner to say and do something. In A.B. 380 section 3, subsection 3, the owner must take "reasonable steps to enjoin, remove or prohibit such use"

SENATOR HARRIS:

Even if the landowner is somewhat ambivalent about a local government borrowing but not actually obtaining an easement with regard to a public thoroughfare, if the landowner allows any kind of improvement, he or she bears the liability for its upkeep or removal. Are landowners better off just saying no at the outset?

ASSEMBLYMAN ANDERSON:

The liability standard in NRS would apply. Whether the property user is a trespasser or invitee, the liability analysis would change. In practice, in most cases when governments build roads on private property, there has been a surveying error. They get express easements just like a normal written contract.

SENATOR HARRIS:

I am just trying to flesh out the requirements for private landowners should they enter into this kind of arrangement. In the instance of the Green Valley Ranch Resort developers, if they no longer want to maintain sidewalks for people walking from the hotel to the shopping area, that could be a legitimate problem of liability and responsibility.

SENATOR CANNIZZARO:

Section 3, subsection 3 refers to "cleaning or maintenance related to the public use of such land" The concern was raised that this might result in a situation in which if someone so much as cleans up property regularly, that might constitute putting that provision into play.

ASSEMBLYMAN ANDERSON:

My intent is really about providing for visible improvements. If someone has put a sidewalk or road on your property, that is a lot easier to ascertain than if someone had cut your grass.

SENATOR CANNIZZARO:

You referenced the 5 versus 15 years for adverse possession. Do the 15 years relate to any other type of prescriptive easement?

ASSEMBLYMAN ANDERSON:

I do not know. Traditionally, it has been 10 or 15 years for adverse possession, depending on different factors like taxes or type of title. Prescriptive easements are five years.

CHAIR SEGERBLOM:

Did you consider stating that nothing in the bill would change the law regarding government entities and prescriptive easements?

ASSEMBLYMAN ANDERSON:

There is room for compromise if the whole bundle is taken rather than just one stick. To the extent we can make it clear that section 3, subsection 3 does not speak for situations in which the entire free interest is taken, I can support that.

CHAIR SEGERBLOM:

The first two subsections of section 3 of A.B. 380 deal with public actions, and subsection 3 deals with government takings. Is that correct?

ASSEMBLYMAN ANDERSON:

No. Section 3, subsection 2 speaks to governmental entities. Subsections 1 and 2 strongly prohibit any governmental entity, as defined in NRS 363C.040, from taking easements in the situations contemplated in the bill.

DAVID CHERRY (City of Henderson):

With the amendments proposed by the City of Henderson, [Exhibit F](#) and [Exhibit G](#), A.B. 380 will be clear and unambiguous in its purpose and effects. Under the bill, we acknowledge a landowner does not confer permanent rights on the public or any governmental entity merely by opening his or her land for public use for pedestrian access or improving the land for that purpose. The City sees the bill as a tradeoff in that it narrows the types of activities that would give the City prescriptive easements.

CHAIR SEGERBLOM:

Do you support section 3, subsection 3?

MR. CHERRY:

Yes, as amended. The City is willing to give up a certain level of rights concerning prescriptive easements in exchange for protections we enjoy as a governmental entity.

CHAIR SEGERBLOM:

In the proposed amendment, [Exhibit F](#), why is the word "such" added?

ASSEMBLYMAN ANDERSON:

The "such" needs to be added to the bill. The language in red in the proposed amendment, [Exhibit F](#), "for pedestrian access and has improved the land for that specific purpose," needs to be added in several places because it narrows the scope of the bill.

MANDY SHAVINSKY (MGM Resorts International):

I am a member of the executive committee of the Real Property Section, State Bar of Nevada. The California laws on which [A.B. 380](#) is modeled are California Civil Code sections 1008, 1009 and 813. The purpose of the bill is to prevent public dedication of private property opened up to the public and to prevent establishment of prescriptive easements in situations in which private property owners have opened their land to the public for certain purposes. Prescriptive easement may be asserted by people who gained access to property because the public was allowed onto it.

[Assembly Bill 380](#) encourages property owners to continue to make their land available to supplement opportunities on tax-supported publicly owned facilities without being confronted with the possible loss of rights to use their property. The bill is not intended to impair or restrict prescriptive easement rights set forth in NRS 11. In some Nevada malls, signs try to prohibit or rebut claims of public dedications or prescriptive easements. However, in a nonrecreational context, there is no clear statutory authority that protects property owners who open their land to the public. *Nevada Revised Statutes* 41.510 protects people who open property for certain public uses but just for recreation like camping or fishing. Situations like pedestrian malls or public gathering places are not addressed in NRS, although they are becoming increasingly common.

CHAIR SEGERBLOM:

Do you believe section 3, subsections 1 and 2 change the law while section 3, subsection 3 merely restates it?

Ms. SHAVINSKY:

Subsections 1 and 2 are intended to address the new easement theory from California, [Exhibit C](#). Subsection 3 restates current law.

KERMITT L. WATERS:

I support section 3, subsections 1 and 2 of [A.B. 380](#). MGM Resorts International supports the bill, and those sections' potential unintended

consequences do not seem harmful. Subsection 3 is a whole different creature. I have practiced property law for 50 years. I have litigated aerial, underground, prescriptive and implied easements all the way to the Nevada Supreme Court. Section 3, subsection 3 is not the same as existing law.

Section 3, subsection 3 could create many possible unintended consequences. It has been represented as only applying to sidewalks or roads, but it is very broad. Theoretically, you could put the Oakland Raiders stadium on private property under its provisions.

Let us assume a young man and his wife own property in Nevada. He goes off to the Marine Corps and Parris Island and then to Iraq for five years. The couple has made payments on the property for six years when the husband comes back and discovers the government has built a facility on it. They no longer own the property, but the bank still wants its money.

Let us say the parents of a family with three preteen children are killed in a plane crash. The only relative who can care for the children lives in England. When the children become aged 18 and come back to check on their parents' property, it is no longer there because the government has built on the land.

This is not existing law. In *Groso v. Lyon County*, the landowners wanted to subdivide their property. A road going into it had been there for 70 years. The landowners filed a subdivision plat with the County with the road indicated on it. The County accepted the plat, even though the road crossed other people's land. The County and developers were sued. By accepting the plat map, the County designated the road public. The government did not take the land; the landowners proved they had a right to the road because they had used it for 70 years.

The same statute was tried by Clark County in an airspace-taking case that I handled in the 1970s. Clark County passed an ordinance that essentially reduced the level of which you could build on property near McCarran International Airport. The ordinance received little bitty clips in the newspaper, and then counsel tried to use that as a basis for taking an aerial easement on commercial property along the south side of Tropicana Drive as low as 12 feet deep. Normally, the level would have been 500 feet. Clark County tried to raise the five-year objection period contained in A.B. 380 as a defense for taking the

abnegation easement. The district court and the Supreme Court did not even give the County a byline on it because it was entirely unconstitutional.

Section 3, subsection 3 is billed as unconstitutional on its face. The government cannot take your property without just compensation, according to the Fifth Amendment. When property is taken for public use, governments must pay just compensation. The Amendment does not say if, when or maybe; it says must.

Let us say a woman has a car crash on the freeway and ends up in a coma for five years. She comes out of it to discover her property is being built on by the government. The examples I gave are extreme and may never happen, but they could. Assembly Bill 380 does not just cover easements. An easement is on the surface of land. If that surface is covered and you cannot use it, what are you going to do with it, mine it? If the bill was never interpreted beyond a sidewalk encroaching on private land for four to five inches deep, the property owner might not get heartburn. However, the bill could pertain to any type of project.

Current Nevada law does not allow governments to impose a prescriptive easement on your property within five years. It takes 15 years because the Supreme Court deemed it so. If I had a rights case like that, I would challenge it in federal court because the 15-year limitation is also unconstitutional.

If you take a landowner's easement, you take more than its fee value. If you take the surface, the landowner cannot use that surface, yet he or she still has to pay taxes on it and has the liability for it. If someone gets hurt on the surface, the landowner is sued. Taking an easement is not taking just one little stick—it is the whole enchilada. My clients usually get 100 percent compensation when their easements are taken because it is not just the surface. They have the liability forever and are still paying taxes on the land.

When I read A.B. 380, I could not figure out why MGM Resorts International supports it. Ms. Shavinsky told me MGM had no idea about the provisions of section 3, subsection 3 and did not want it. Then I was told the City of Henderson did not want it. Now, I do not know if the entities do or do not.

If a government builds on someone's property and then he or she comes to me and says, "I've got a project on my property I didn't know about," do you think I am going to try and get an injunction to get the development off? No, because

no judge is going to make the government move the project off. The judge will just make the government pay my client compensation for it. The compensation inverse is for the value of the take, severance damage and remainder, attorneys' fees, costs, appraisers' fees, deposition costs and jury fees. The bill will make it far more expensive for a city to even think about doing it than if the city just bought the property outright or filed a direct action on it.

I cannot think of any reason why section 3, subsection 3 should be in A.B. 380. If that subsection is not stricken, change the liability notice time from 5 to 15 years to put it back on the same footing as in *White Pine Lumber Co. v. City of Reno*.

CHAIR SEGERBLOM:

Do you agree an easement needs a five-year statute of limitations?

MR. WATERS:

No, not for the government to take property. You can get a five-year prescriptive easement across someone's property, but the government cannot do so without paying compensation.

SENATOR ROBERSON:

The Committee generally likes A.B. 380 but has concerns with section 3, subsection 3. Assemblyman Anderson, are you willing to remove it?

ASSEMBLY ANDERSON:

I will talk to you about that in private. I do not want to negotiate in public.

SENATOR ROBERSON:

I am not negotiating on it. I will vote against the bill unless you remove the offending section.

ASSEMBLYMAN ANDERSON:

I have provided the Committee with two caselaws and citations showing Lyon County had the five-year period applied in the *Groso* case. Opponents of the bill have made bare-naked assertions without citations.

SENATOR ROBERSON:

No one disputes that Mr. Waters is an expert in his field. His case against the bill bears a certain amount of weight with me. To attain bipartisan support for A.B. 380, please consider removing section 3, subsection 3.

CHAIR SEGERBLOM:

Let us say I own property on which the government builds a sidewalk. Would that be an easement versus a taking?

ASSEMBLYMAN ANDERSON:

There is always a 5- or 15-year limitations period whether it is an adverse possession or a prescriptive easement. You can interrupt that period by filing an ejectment, trespassing or quiet-title action. There is no reason why an inverse condemnation action would not operate in the same way. Looking at the caselaw provided, that is how questions about the claim-filing period arise.

CHAIR SEGERBLOM:

Is the five-year period you cite an easement? The physical sidewalk, which obviously takes the land, is an easement with a five-year statute of limitations on the inverse condemnation.

ASSEMBLYMAN ANDERSON:

Yes.

SENATOR ROBERSON:

If there is a legitimate question as to whether the bill will make it easier for government to take private property without compensation, I will not support it. It is unclear if the bill will harm the property rights of Nevadans.

ASSEMBLYMAN ANDERSON:

If A.B. 380 does not pass, the existing five-year period applies.

MR. WATERS:

Assembly Anderson's reading of *Groso v. Lyon County* is mistaken. Private people obtained a prescriptive easement and recorded a plat map showing it as a public road. Lyon County did not take the land without compensation. The five-year statute allows private people to get a prescriptive easement. The bill allows the government to do so without paying for it. In any case, that is probably unconstitutional.

ASSEMBLY ANDERSON:

Committee Counsel Nick Anthony is fully aware of the caselaw, which was also reviewed by the Legislative Counsel Bureau legal staff. In *Groso*, the taking was a government action approved by Lyon County, which was subsequently sued.

CHAIR SEGERBLOM:

We will close the hearing on A.B. 380 and open the hearing on A.B. 235.

ASSEMBLY BILL 235 (1st Reprint): Enacts the Uniform Commercial Real Estate Receivership Act. (BDR 3-714)

ASSEMBLYWOMAN DANIELE MONROE-MORENO (Assembly District No. 1):

You have my summary of A.B. 235 ([Exhibit H](#)), the Uniform Commercial Real Estate Receivership Act.

CHAIR SEGERBLOM:

We will close the hearing on A.B. 235 and open the hearing on A.B. 411.

ASSEMBLY BILL 411 (1st Reprint): Revises provisions governing employment with a department of juvenile justice services. (BDR 5-1029)

RICK McCANN (Executive Director, Nevada Association of Public Safety Officers; Nevada Law Enforcement Coalition):

The Nevada Association of Public Safety Officers and Clark County support A.B. 411. You have my proposed amendment ([Exhibit I](#)) on behalf of the County.

MICHAEL SEAN GIURLANI (President, Nevada State Law Enforcement Officers Association):

The Nevada State Law Enforcement Officers Association supports A.B. 411.

JACK MARTIN (Director, Department of Juvenile Justice Services, Clark County):

The Clark County Department of Juvenile Justice Services supports A.B. 411.

CHAIR SEGERBLOM:

We will close the hearing on A.B. 411 and open the work session on Senate Bill (S.B.) 203.

Senate Committee on Judiciary
May 12, 2017
Page 16

SENATE BILL 203: Revises provisions relating to domestic corporations.
(BDR 7-71)

PATRICK GUINAN (Policy Analyst):
Senate Bill 203, as addressed in the work session document ([Exhibit J](#)), revises provisions related to domestic corporations. Lorne Malkiewich has proposed an amendment, [Exhibit J](#), on behalf of U-Haul International, Inc.

SENATOR HARRIS MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 203.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR SEGERBLOM:
We will open the work session on A.B. 145.

ASSEMBLY BILL 145 (1st Reprint): Extends the statute of limitations for certain civil actions for damages for injuries incurred as a child as a result of sexual abuse or pornography. (BDR 2-584)

MR. GUINAN:
Assembly Bill 145, as discussed in the work session document ([Exhibit K](#)), has one amendment from the sponsor. This amendment adds the following Legislators as bill cosponsors: Senators Cannizzaro, Gansert, Gustavson, Harris and Kieckhefer, and Assembly members Titus and Wheeler.

SENATOR HARRIS MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 145.

SENATOR CANNIZZARO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

Senate Committee on Judiciary
May 12, 2017
Page 17

CHAIR SEGERBLOM:

We will open the work session on S.B. 361.

SENATE BILL 361: Revises provisions related to domestic violence.
(BDR 53-775)

MR. GUINAN:

Senate Bill 361, as addressed in the work session document ([Exhibit L](#)), has one amendment, proposed by Senator Cannizzaro.

SENATOR FORD MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 361.

SENATOR CANNIZZARO SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR GUSTAVSON VOTED NO.)

CHAIR SEGERBLOM:

We will open the work session on A.B. 136.

ASSEMBLY BILL 136 (1st Reprint): Revises provisions governing bail in certain criminal cases. (BDR 14-708)

MR. GUINAN:

Assembly Bill 136, as addressed in the work session document ([Exhibit M](#)), revises provisions governing bail in certain criminal cases.

SENATOR FORD MOVED TO DO PASS A.B. 136.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS GUSTAVSON, HARRIS AND ROBERSON VOTED NO.)

Senate Committee on Judiciary
May 12, 2017
Page 18

CHAIR SEGERBLOM:

We will open the work session on A.B. 150.

ASSEMBLY BILL 150 (1st Reprint): Revises provisions governing private professional guardians. (BDR 13-808)

Assembly Bill 150, as addressed in the work session document ([Exhibit N](#)), revises provisions governing private professional guardians. The amendment, [Exhibit N](#), was submitted by Assemblyman Michael C. Sprinkle, Assembly District No. 30.

SENATOR HARRIS MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 150.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR SEGERBLOM:

We will open the work session on A.B. 173.

ASSEMBLY BILL 173 (1st Reprint): Revises provisions governing the process for a change of name. (BDR 3-586)

MR. GUINAN:

Assembly Bill 173, as addressed in the work session document ([Exhibit O](#)), revises provisions governing name changes.

CHAIR SEGERBLOM:

This is a great bill that will save people a lot of money and expedite the name-change process.

SENATOR HARRIS MOVED TO DO PASS A.B. 173.

SENATOR DENIS SECONDED THE MOTION.

Senate Committee on Judiciary
May 12, 2017
Page 19

THE MOTION CARRIED UNANIMOUSLY.

CHAIR SEGERBLOM:

We will open the work session on A.B. 180.

ASSEMBLY BILL 180 (1st Reprint): Enacts the Juvenile Justice Bill of Rights.
(BDR 5-711)

MR. GUINAN:

Assembly Bill 180, as addressed in the work session document ([Exhibit P](#)), enacts the Juvenile Justice Bill of Rights.

SENATOR HARRIS MOVED TO DO PASS A.B. 180.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

SENATOR ROBERSON:

Senate Bill 488 was sponsored by Senator Pat Spearman, Senatorial District No. 1. Could she explain the purpose of Proposed Amendment 4654 ([Exhibit Q](#))? It seems to be watering down the initial language of the bill.

SENATE BILL 488: Revises provisions relating to sexual offenses.
(BDR 15-1086)

SENATOR CANNIZZARO:

There were concerns the bill's language was overly broad and might unintentionally include people like Uber or taxi drivers who might pick up a fare not knowing a passenger was being transported for sex trafficking. Therefore, in section 1, subsection 2, paragraph (a) of the proposed amendment, [Exhibit Q](#), we added the word "knowingly."

Some elements covered by that word must be proven in criminal cases. Senate Bill 488 was written in a way that its individual sections did not relate to sex trafficking. In section 1, subsection 2, paragraph (a), subparagraph (4),

sub-subparagraphs (I) and (II), which talk about violations of subparagraphs (1), (2) or (3), that relates back to NRS 201.300, the sex-trafficking statute. If someone were engaging in the transportation of a person, it would have to be for sex-trafficking purposes.

We worked on other language to ensure the knowledge requirement was in the bill. The proposed amendment did not go as far as some people would have liked, but now it does not target people who transport others as part of their job versus for sex-trafficking purposes. In addition, Senator Spearman agreed to reduce the penalty to the original minimum.

SENATOR HARRIS:

What led to the change in the proposed amendment language in section 1, subsection 2, paragraph (6), subparagraph (I) from "caused" to "compelled" with regard to forcing someone to engage in sexual conduct?

SENATOR CANNIZZARO:

There was a concern that if you were merely causing someone to engage in sexual conduct, that might not get at the truly bad actors.

SENATOR HARRIS:

What elements constitute compulsion versus causation?

SENATOR CANNIZZARO:

Compulsion implies more of an intent and willingness and knowledge to act on the person by coercion, implications, threats or grooming. That is different from putting someone in a position to offer sex for money. You could argue that "cause" would be appropriate, especially if a child was involved. The evidence would probably point to being compelled.

SENATOR HARRIS:

I would hate to prosecute something and not clear the burden of proof hurdle.

CHAIR SEGERBLOM:

We will open the work session on S.B. 488.

MR. GUINAN:

Senate Bill 488, as addressed in the work session document ([Exhibit R](#)), revises provisions relating to sex offenses. Proposed Amendment 4654, [Exhibit Q](#), was

Senate Committee on Judiciary
May 12, 2017
Page 21

submitted by the bill's sponsor, Senator Spearman. She has agreed to add Senators Cannizzaro, Heidi Gansert, Gustavson, Harris and Ben Kieckhefer and Assembly members Robin L. Titus and Jim Wheeler as sponsors.

SENATOR CANNIZZARO MOVED TO AMEND AND DO PASS AS AMENDED S.B. 488.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR SEGERBLOM:

We will open the work session on A.B. 228.

ASSEMBLY BILL 228 (1st Reprint): Revises provisions relating to the termination of parental rights. (BDR 11-590)

MR. GUINAN:

Assembly Bill 228, as addressed in the work session document ([Exhibit S](#)), revises provisions relating to the termination of parental rights.

SENATOR HARRIS MOVED TO DO PASS A.B. 228.

SENATOR GUSTAVSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR SEGERBLOM:

We will open the work session on A.B. 229.

ASSEMBLY BILL 229 (1st Reprint): Revises provisions governing domestic relations. (BDR 11-701)

Senate Committee on Judiciary
May 12, 2017
Page 22

MR. GUINAN:

Assembly Bill 229, as addressed in the work session document ([Exhibit T](#)), authorizes the marriage of two person regardless of gender. Senator Gustavson offered a proposed amendment, [Exhibit T](#). However, the bill's sponsors do not accept the amendment.

SENATOR FORD MOVED TO DO PASS A.B. 229.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR GUSTAVSON VOTED NO.)

* * * * *

CHAIR SEGERBLOM:

We will open the work session on A.B. 232.

ASSEMBLY BILL 232 (1st Reprint): Establishes provisions governing changing the name of a minor. (BDR 3-811)

MR. GUINAN:

Assembly Bill 232, as addressed in the work session document ([Exhibit U](#)), establishes provisions governing changing the name of a minor.

SENATOR CANNIZZARO MOVED TO DO PASS A.B. 232.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR SEGERBLOM:

We will open the work session on A.B. 254.

ASSEMBLY BILL 254: Revises provisions governing guardianships.
(BDR 13-595)

Senate Committee on Judiciary
May 12, 2017
Page 23

MR. GUINAN:

Assembly Bill 254 as addressed in the work session document ([Exhibit V](#)), revises provisions governing guardianships. Assemblyman Steve Yeager, Assembly District No. 9, proposed an amendment, [Exhibit V](#).

SENATOR HARRIS MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 254.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR SEGERBLOM:

We will open the hearing on A.B. 314.

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

MR. GUINAN:

Assembly Bill 314, as addressed in the work session document ([Exhibit W](#)), revises various provisions relating to estates. There are two proposed amendments, [Exhibit W](#), from the Division of Health Care Financing and Policy, Department of Health and Human Services, and Clark County Nevada Public Administrator John. J Cahill.

SENATOR FORD MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 314 WITH THE AMENDMENT FROM THE DIVISION OF HEALTH
CARE FINANCING AND POLICY.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR SEGERBLOM:

We will open the work session on A.B. 316.

Senate Committee on Judiciary
May 12, 2017
Page 24

ASSEMBLY BILL 316 (1st Reprint): Revises provisions relating to offenders.
(BDR 16-961)

MR. GUINAN:

Assembly Bill 316, as addressed in the work session document ([Exhibit X](#)), revises provisions relating to minors.

SENATOR ROBERSON MOVED TO DO PASS A.B. 316.

SENATOR CANNIZZARO SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR SEGERBLOM:

We will open the work session on A.B. 319.

ASSEMBLY BILL 319 (1st Reprint): Revises provisions governing the guardianship of minors. (BDR 13-502)

MR. GUINAN:

Assembly Bill 319, as addressed in the work session document ([Exhibit Y](#)), revises provisions governing the guardianship of minors.

SENATOR HARRIS MOVED TO DO PASS A.B. 319.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR SEGERBLOM:

We will open the work session on A.B. 341.

ASSEMBLY BILL 341 (1st Reprint): Revises provisions governing juvenile justice.
(BDR 5-964)

Senate Committee on Judiciary
May 12, 2017
Page 25

MR. GUINAN:

Assembly Bill 341, as addressed in the work session document ([Exhibit Z](#)), revises provisions governing juvenile justice. Clark County has a proposed amendment, [Exhibit Z](#).

SENATOR DENIS MOVED TO AMEND AND DO PASS AS
AMENDED A.B. 341.

SENATOR FORD SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR SEGERBLOM:

We will open the work session on A.B. 365.

ASSEMBLY BILL 365 (1st Reprint): Revises provisions relating to marriage.
(BDR 11-1020)

MR. GUINAN:

Assembly Bill 365, as addressed in the work session document ([Exhibit AA](#)), revises provisions relating to marriage. The Office of the County Clerk, Clark County, proposed an amendment ([Exhibit BB](#)).

LYNN GOYA (Clerk, Office of the County Clerk, Clark County):

I requested the proposed amendment, [Exhibit BB](#), on behalf of Senator Spearman. It amends NRS 122.064, subsection 7, and adds an enforcement mechanism to existing law.

CHAIR SEGERBLOM:

If you have a lot of people registered to marry and send out mailings to the officiants, if they do not respond, can you take them off the rolls?

MS. GOYA:

We currently have more than 5,000 registered marriage officiants. When I sent out my last mailing, we got about 1,200 back. If I have to send out another mailing, I must include those 1,200 officiants.

Senate Committee on Judiciary
May 12, 2017
Page 26

SENATOR CANNIZZARO MOVED TO AMEND AND DO PASS AS
AMENDED A.B. 365.

SENATOR FORD SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

Remainder of page intentionally left blank; signature page to follow.

Senate Committee on Judiciary
May 12, 2017
Page 27

CHAIR SEGERBLOM:

We will close the work session on A.B. 365. Seeing no more business before the Senate Committee on Judiciary, we are adjourned at 2:12 p.m.

RESPECTFULLY SUBMITTED:

Pat Devereux,
Committee Secretary

APPROVED BY:

Senator Tick Segerblom, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	2		Agenda
	B	4		Attendance Roster
A.B. 380	C	4	Assemblyman Elliott Anderson	Prescriptive Easements in California
A.B. 380	D	3	Assemblyman Elliott Anderson	<i>Groso v. Lyon County, Nev.</i> , 100 Nev. 522
A.B. 380	E	3	Assemblyman Elliott Anderson	<i>White Pine Lumber Co. v. City of Reno</i> , 106 Nev. 778
A.B. 380	F	1	City of Henderson	Proposed Amendment
A.B. 380	G	1	City of Henderson	Proposed Amendment
A.B. 235	H	12	Assemblywoman Daniele Monroe-Moreno	Uniform Commercial Real Estate Receivership Act
A.B. 411	I	7	Rick McCann / Clark County	Proposed Amendment
S.B. 203	J	9	Patrick Guinan	Work Session Document
A.B. 145	K	1	Patrick Guinan	Work Session Document
S.B. 361	L	10	Patrick Guinan	Work Session Document
A.B. 136	M	1	Patrick Guinan	Work Session Document
A.B. 150	N	28	Patrick Guinan	Work Session Document
A.B. 173	O	1	Patrick Guinan	Work Session Document
A.B. 180	P	1	Patrick Guinan	Work Session Document
S.B. 488	Q	4	Senator Pat Spearman	Proposed Amendment 4654
S.B. 488	R	5	Patrick Guinan	Work Session Document
A.B. 228	S	1	Patrick Guinan	Work Session Document
A.B. 229	T	2	Patrick Guinan	Work Session Document
A.B. 232	U	1	Patrick Guinan	Work Session Document
A.B. 254	V	6	Patrick Guinan	Work Session Document
A.B. 314	W	3	Patrick Guinan	Work Session Document

A.B. 316	X	1	Patrick Guinan	Work Session Document
A.B. 319	Y	1	Patrick Guinan	Work Session Document
A.B. 341	Z	4	Patrick Guinan	Work Session Document
A.B. 365	AA	1	Patrick Guinan	Work Session Document
A.B. 365	BB	1	Lynn Goya / Office of the County Clerk, Clark County	Proposed Amendment