

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

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

The Senate Committee on Judiciary was called to order by Chair Tick Segerblom at 1:46 p.m. on Thursday, March 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

Senator David R. Parks, Senatorial District No. 7

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Garrett D. Gordon, Community Association Institute; Southern Highlands Homeowners Association
Tim Stebbins, Director, Nevada Homeowner Alliance

CHAIR SEGERBLOM:

We will open the work session on Senate Bill (S.B.) 33.

SENATE BILL 33: Prohibits the foreclosure of real property owned by certain military personnel or their dependents in certain circumstances. (BDR 3-164)

PATRICK GUINAN (Policy Analyst):

Senate Bill 33 ([Exhibit C](#)) prohibits the foreclosure of certain real property owned by military personnel or their dependents in certain circumstances. The bill prohibits foreclosure of active duty servicemembers' residential mortgage loans and for one year immediately following active duty so long as the loan was entered into before the person was called to active duty or deployed. The protections are also applied to dependents in certain circumstances. Persons who knowingly violate the bill's provisions are guilty of a misdemeanor and may be liable for damages.

There is a proposed friendly amendment agreed to by the sponsors. Senator Harris' amendment would revise the bill's section 1, subsection 2, paragraph (b) so that it parallels federal law. The new language is "... to adjust the obligation to preserve the interest of the parties." The second part of the amendment addresses actions a homeowners' association (HOA) may take after a default.

GARRETT D. GORDON (Community Association Institute; Southern Highlands Homeowners Association):

I do not object to the inclusion of HOA liens in S.B. 33. Banks have the ability to verify servicemembers' active duty and deployment because banks have their social security numbers and dates of birth, as confirmed by the Department of Defense Website. Homeowners' associations do not have access to that information on unit owners.

Under the amendment, when HOAs send unit owners letters asking why their assessment payments are delinquent, written confirmation of servicemembers' active duty status may be requested. The bill also allows HOAs to work with military installations to confirm homeowners are deployed or have active status before foreclosure proceedings can move forward.

CHAIR SEGERBLOM:

Is this an issue in other states?

Senate Committee on Judiciary
March 2, 2017
Page 3

MR. GORDON:

Nevada will be the first state to include HOA liens on servicemembers in its statutory scheme.

CHAIR SEGERBLOM:

Are you representing a HOA?

MR. GORDON:

Yes, I represent the Community Association Institute.

SENATOR FORD:

With whom else did you correspond when drafting this bill besides the Office of the Governor? Did you confer with Legal Aid or other homeowner interest groups?

MR. GORDON:

No, I just worked with the Office of the Governor. In previous Sessions, I have worked with Legal Aid on section 1, subsection 4 of *Nevada Revised Statutes* (NRS) 116.31162. After a unit owner is in arrears, the HOA is required to send a letter after 60 days of nonpayment. It must include a repayment plan option and other protections to allow the homeowner to become current with payments. Under the amendment to S.B. 33, the letter will also include a request to the owner to provide written confirmation of active duty status or a deployment order. Lenders, not HOAs, have that information.

SENATOR FORD:

How will this change the notices contemplated in S.B. No. 306 of the 78th Session?

MR. GORDON:

Senate Bill 33 should not impact that notice. The important thing in S.B. No. 306 of the 78th Session is notification of lenders during the HOA lien process. The letter required in S.B. 33 is sent before lenders are given notice. It is between the unit owner and the HOA.

CHAIR SEGERBLOM:

We will close the work session on S.B. 33 and open the work session on S.B. 35.

SENATE BILL 35: Creates the Subcommittee on Criminal Justice Information Sharing of the Advisory Commission on the Administration of Justice. (BDR 14-261)

MR. GUINAN:

Senate Bill 35 ([Exhibit D](#)) creates a Subcommittee on Criminal Justice Information Sharing of the Advisory Commission on the Administration of Justice (ACAJ). The bill provides for the appointment of Subcommittee members and describes its duties. Members will include a representative of the Central Repository for Nevada Records of Criminal History to the ACAJ. It requires the ACAJ to make related recommendations to the Department of Public Safety and the Legislature. It repeals the current Advisory Committee on Nevada Criminal Justice Information Sharing.

SENATOR FORD MOVED TO DO PASS S.B. 35.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR SEGERBLOM:

We will close the work session on S.B. 35 and open the work session on S.B. 40.

SENATE BILL 40: Revises provisions relating to the registration of child custody determinations and support orders from outside Nevada. (BDR 11-401)

MR. GUINAN:

Senate Bill 40 ([Exhibit E](#)) revises the Uniform Child Custody Jurisdiction and Enforcement Act. It provides that a person seeking an out-of-state custody determination in Nevada be required to serve notice on parents or anyone who has custody or visitation rights rather than having the court do so. The bill also amends the Uniform Interstate Family Support Act by requiring people who register out-of-state support orders, income-withholding orders or foreign support orders in Nevada for enforcement to provide notice to the necessary parties rather than having a State tribunal do so.

There are two proposed amendments to S.B. 40. In testimony, Chief Judge Elizabeth Gonzalez of the Eighth Judicial District Court noted that section 2, concerning support and income-withholding orders, needs to be deleted due to concerns the change may jeopardize funding received by the State. Senator Harris suggested adding a requirement that the notifications in section 1 be sent by certified or registered mail.

SENATOR FORD MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 40.

SENATOR CANNIZZARO SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR SEGERBLOM:

We will close the work session on S.B. 40 and open the work session on S.B. 41.

SENATE BILL 41: Revises various provisions relating to business entities.
(BDR 7-425)

MR. GUINAN:

Senate Bill 41 ([Exhibit F](#)) removes a State-licensing exemption for motion picture companies and provides that the Secretary of State may examine records of registered agents as necessary or appropriate. It also removes a duplicate requirement concerning registration by church organizations that solicit charitable contributions. It clarifies the reinstatement fee of \$100 for a corporation sole to conduct business in Nevada.

There is one proposed amendment crafted by the Office of the Secretary of State and the Nevada Registered Agent Association. It clarifies certain provisions about where records must be maintained.

SENATOR FORD MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 41.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR SEGERBLOM:

We will close the work session on S.B. 41 and open the work session on S.B. 42.

SENATE BILL 42: Revises provisions related to justices of the peace.
(BDR 1-394)

MR. GUINAN:

Senate Bill 42 ([Exhibit G](#)) revises the date for boards of county commissioners to fix compensation for justices of the peace from July of the year in which a justice of the peace election is held to December of the year immediately preceding a year in which such an election is held.

SENATOR FORD MOVED TO DO PASS S.B. 42.

SENATOR CANNIZZARO SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR SEGERBLOM:

We will close the work session on S.B. 42 and open the work session on S.B. 110.

SENATE BILL 110: Revises provisions governing the process for a change of name. (BDR 3-142)

MR. GUINAN:

Senate Bill 110 ([Exhibit H](#)) provides that a person who petitions a court for a name-change exemption is not subject to the requirement to publish that information in a newspaper for several weeks if the reason for the change is to conform the name to the person's gender identity.

Senate Committee on Judiciary
March 2, 2017
Page 7

SENATOR DAVID R. PARKS (Senatorial District No. 7):
I am satisfied with the current language of S.B. 110.

SENATOR FORD MOVED TO DO PASS S.B. 110.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR SEGERBLOM:

We will close the work session on S.B. 110 and open the work session on S.J.R. 1.

SENATE JOINT RESOLUTION 1: Proposes to amend the Nevada Constitution to replace the State Board of Pardons Commissioners with the Clemency Board and requires the Legislature to provide for the organization and duties of the Clemency Board. (BDR C-567)

MR. GUINAN:

Senate Joint Resolution (S.J.R.) 1 ([Exhibit I](#)) replaces the State Board of Pardons Commissioners with the Clemency Board consisting of nine members appointed by the Governor, the Chief Justice of the Nevada Supreme Court and the Attorney General. At least five members of the Board are required to have criminal justice system experience. The Legislature will provide for the organization and duties of the Board, which will be required to meet at least quarterly.

SENATOR PARKS:

I recommend passage of S.J.R. 1.

CHAIR SEGERBLOM:

Did not S.J.R. 1 first pass in the Seventy-fifth Legislative Session?

SENATOR PARKS:

Yes, it was passed unanimously by both Houses of the Legislature.

SENATOR ROBERSON:

Did members of the Seventy-sixth Legislative Session not consider S.J.R. 1?

Senate Committee on Judiciary
March 2, 2017
Page 8

SENATOR PARKS:

That is correct. It was heard by this Committee, but there was no action.

SENATOR ROBERSON:

Do you know why?

SENATOR PARKS:

No.

SENATOR FORD MOVED TO DO PASS S.J.R. 1.

SENATOR CANNIZZARO SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR SEGERBLOM:

We will close the work session on S.J.R. 1 and open the work session on S.B. 133.

SENATE BILL 133: Revises the Uniform Deployed Parents Custody and Visitation Act. (BDR 11-571)

MR. GUINAN:

Senate Bill 133 ([Exhibit J](#)) revises the Uniform Deployed Parents Custody and Visitation Act to apply to civilian employees of the Department of Defense.

SENATOR FORD MOVED TO DO PASS S.B. 133.

SENATOR GUSTAVSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR SEGERBLOM:

We will close the work session on S.B. 133 and open the work session on S.B. 140.

SENATE BILL 140: Authorizes the residential confinement or other appropriate supervision of certain older offenders. (BDR 16-798)

MR. GUINAN:

Senate Bill 140 ([Exhibit K](#)) authorizes the Director of the Department of Corrections to assign offenders who have not been sentenced to death or life without the possibility of parole to the custody of the Division of Parole and Probation to serve a term of residential confinement or other appropriate supervision for the remainder of their terms. Offenders must be at least age 65, not been convicted of a violent crime and have served a majority of the maximum term or maximum aggregate term of their sentences.

The Nevada District Attorneys Association and Senator Cannizzaro have proposed an amendment. It would add language clarifying that a person serving a sentence for felony sex offense would be ineligible for residential confinement.

SENATOR CANNIZZARO MOVED TO AMEND AND DO PASS AS AMENDED S.B. 140.

SENATOR DENIS SECONDED THE MOTION.

SENATOR GUSTAVSON:

I am concerned that DUI offenders would be excluded from the bill's provisions. If it cannot be amended to include them, I cannot support the bill.

SENATOR FORD:

Was the bill's sponsor, Senator Joseph P. Hardy, Senatorial District No. 12, amenable to the inclusion of DUI offenders?

CHAIR SEGERBLOM:

He left it up to the Committee. I do not like it because that presumes DUI is a violent crime.

SENATOR HARRIS:

Is there a way to reword the bill so DUI is not considered a violent crime, rather the result of addiction? The concern is for the propensity of DUI offenders to repeat the crime because alcoholism is a difficult addiction to overcome, and the incidence of reoffending is higher than for other crimes.

SENATOR FORD:

That was the concern raised by Senator Hardy when he classified alcoholism as an addiction. If DUI is included, there must be some level of caveat and more discussion. The bill does not release offenders directly into the community. The release is supervised, with conditions disallowing people convicted of DUI from having a drink. There are options to including DUI offenders in the bill.

CHAIR SEGERBLOM:

If the bill specified DUI as a disallowing offense, that would not be a counterbalance. The fact is commission of DUI was why the person was sentenced.

SENATOR GUSTAVSON:

There are several levels of DUI offenses, some less criminal than others. Most first-time DUI offenders are not sent to prison unless the offense is associated with a more serious crime. We could reword the bill to include DUI and drug-related offenses.

SENATOR CANNIZZARO:

There are NRS statutes that address DUI exemptions, such as those resulting in substantial bodily harm or death. If the DUI was minor, the offender would not be in prison. Serious DUI offense sentences tend to be quite long, a maximum of 20 years. Under the bill, offenders would have to serve a significant portion of that sentence before becoming eligible for residential confinement.

I had information about the two people discussed in the hearing on the bill who would be eligible for release under its terms. They are incarcerated for property-related crimes: vehicle theft and nonresidential burglary. Including DUI language would not cover eligible offenders.

CHAIR SEGERBLOM:

Would adding DUI to the bill be a problem for you?

SENATOR CANNIZZARO:

It is not necessarily a problem. I do not think we are capturing anyone falling into that category by adding DUI language.

SENATOR CANNIZZARO WITHDREW HER MOTION.

SENATOR DENIS WITHDREW HIS SECOND.

* * * * *

CHAIR SEGERBLOM:

We will close the work session on S.B. 140 and open the work session on S.B. 195.

SENATE BILL 195: Revises provisions relating to common-interest communities and time shares. (BDR 10-470)

MR. GUINAN:

Senate Bill 195 ([Exhibit L](#)) changes provisions governing common-interest communities, including time-share properties. It revises methods by which executive board vacancies are filled, elections are conducted and special declarants' rights are transferred in involuntary sales. The bill also revises notice requirements for executive sessions, requires additional insurance coverage for directors and officers, and grants boards additional powers to manage parking and storage of recreational vehicles.

The bill requires independent annual financial audits of community managers' records and associated reporting. The bill requires time-share properties to make additional disclosures regarding public offering statements and sales contracts, places time limits on developers' reserved rights and authorizes the majority of associations' board members—rather than the owners—to refuse to renew managers' contracts. Senate Bill 195 also requires managers to make annual financial reports on compensation they receive for services rendered.

The proposed amendment is from Senator Harris, after consultations with other parties interested in the bill. Section 5, subsection 3, and section 6, subsection 6, change the executive session notifications process. Section 9 would be deleted. Section 10 deletes a time-share property's required public offering statement and replaces it with a "notice to purchaser." Sections 11 and 12 are deleted.

In the proposed amendment to S.B. 195, section 13, subsection 3, I made a drafting error. The language in the work session document is the bill's current language. The amendment intended to delete replace "board" with "association" in section 13, subsections 1 and 2. On page 34 of the bill in lines 9, 10 and 13,

the stricken language in line 9," ... the association who are entitled to vote, excluding the developer ..." would be retained. In lines 10 and 13, the new word, "board," would be removed.

CHAIR SEGERBLOM:

Senate Bill 195 has two sections, dealing with HOAs and with time-shares. Mr. Gordon, you were involved with the HOA portion. Have you seen the proposed amendments?

MR. GORDON:
Yes.

SENATOR HARRIS:

I have had many conversations with representatives from various HOA boards throughout the State. As we looked at the amended language for sections 5 and 6, it drew large consensus. John Leach, who represents HOAs and is a member of the State Bar Real Property Section, had a lot of input into sections 5 and 6. In regard to sections 10 and 13, we talked to time-share owners and national organizations representing them. We also talked to representatives of the American Resort Development Association, who said they will support the proposed amendment.

SENATOR FORD MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 195.

SENATOR GUSTAVSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR SEGERBLOM:

We will close the hearing on S.B. 195. We will open the public comment session.

TIM STEBBINS (Director, Nevada Homeowner Alliance):

Section 4 of S.B. 195 causes lingering concerns to the Nevada Homeowner Alliance. It mandates HOA board elections must be commensurate with annual meetings. Any HOA should be able to specify when it holds elections. We do

not need a law dictating that. I suggested to Senator Harris that part be deleted and alternative language added.

A Las Vegas area HOA discovered shortly after a board election at least four serious incidences of fraud. The board and homeowners decided to hold a new election. Under S.B. 195, that would be prohibited, no matter how corrupted and fraudulent an election was. The HOA could do nothing until the next annual election, which could be almost a year hence.

SENATOR HARRIS:

Mr. Stebbins, another interested party and I have exchanged a series of emails. I did not receive Mr. Stebbins' concerns about the elections process or new language so I could transmit it to staff. Mr. Guinan received several emails with that language, but I have not.

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

Senate Committee on Judiciary
March 2, 2017
Page 14

CHAIR SEGERBLOM:

Seeing no more business before the Senate Committee on Judiciary, this meeting is adjourned at 2:38 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
S.B. 33	C	2	Patrick Guinan	Work Session Document
S.B. 35	D	1	Patrick Guinan	Work Session Document
S.B. 40	E	3	Patrick Guinan	Work Session Document
S.B. 41	F	4	Patrick Guinan	Work Session Document
S.B. 42	G	1	Patrick Guinan	Work Session Document
S.B. 110	H	1	Patrick Guinan	Work Session Document
S.J.R. 1	I	1	Patrick Guinan	Work Session Document
S.B. 133	J	1	Patrick Guinan	Work Session Document
S.B. 140	K	3	Patrick Guinan	Work Session Document
S.B. 195	L	3	Patrick Guinan	Work Session Document