

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

**Eightieth Session
June 3, 2019**

The Committee on Judiciary was called to order by Chairman Steve Yeager at 8:06 a.m. on Monday, June 3, 2019, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4404B 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/80th2019.

COMMITTEE MEMBERS PRESENT:

Assemblyman Steve Yeager, Chairman
Assemblywoman Lesley E. Cohen, Vice Chairwoman
Assemblywoman Shea Backus
Assemblyman Skip Daly
Assemblyman Chris Edwards
Assemblyman Ozzie Fumo
Assemblywoman Alexis Hansen
Assemblywoman Lisa Krasner
Assemblywoman Brittney Miller
Assemblywoman Rochelle T. Nguyen
Assemblywoman Sarah Peters
Assemblyman Tom Roberts
Assemblywoman Jill Tolles
Assemblywoman Selena Torres
Assemblyman Howard Watts

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator James Ohrenschall, Senate District No. 21

Minutes ID: 1387



STAFF MEMBERS PRESENT:

Diane C. Thornton, Committee Policy Analyst
Bradley A. Wilkinson, Committee Counsel
Linda Whimple, Committee Secretary
Melissa Loomis, Committee Assistant

OTHERS PRESENT:

Matthew L. Sharp, representing Nevada Justice Association
Mark C. Wenzel, representing Nevada Justice Association
Alan McMahon, Private Citizen, Kings Beach, California
Zach Conine, State Treasurer
Cathy Kaplan, Chief, Child Support Enforcement, Division of Welfare and Supportive Services, Department of Health and Human Services

Chairman Yeager:

[Roll was called and protocol explained.] We have finally arrived at Day 120 of 120 of the legislative session. Thank you for being here. Hopefully you are just as excited as we are to be going home very soon.

We are going to go into a quick work session first for the two bills that we heard yesterday in Committee. Committee members, you should have those documents in front of you, and I believe they are uploaded to the Nevada Electronic Legislative Information System.

Senate Bill 3 (1st Reprint): Revises provisions governing postconviction petitions for a writ of habeas corpus that challenge the computation of time served in incarceration by an offender. (BDR 3-411)

Diane C. Thornton, Committee Policy Analyst:

Our first bill on work session is Senate Bill 3 (1st Reprint), which revises provisions governing postconviction petitions for a writ of habeas corpus that challenge the computation of time served in incarceration by an offender. It was sponsored by the Senate Committee on Judiciary on behalf of the Attorney General and heard in this Committee on June 2, 2019. There are no amendments for this measure ([Exhibit C](#)).

Chairman Yeager:

Are there any questions from Committee members on the work session document for S.B. 3 (R1)? [There were none.] I will take a motion to do pass S.B. 3 (R1).

ASSEMBLYWOMAN TORRES MADE A MOTION TO DO PASS
SENATE BILL 3 (1ST REPRINT).

ASSEMBLYWOMAN NGUYEN SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN DALY, EDWARDS, HANSEN, KRASNER, MILLER, AND TOLLES WERE ABSENT FOR THE VOTE.)

Chairman Yeager: We probably will not be doing floor statements today, but just in the interest of caution, I will assign that to Assemblywoman Torres if we are doing floor statements.

Senate Bill 162 (1st Reprint): Revises provisions relating to electronic transactions. (BDR 59-876)

Diane C. Thornton, Committee Policy Analyst:

Senate Bill 162 (1st Reprint) revises provisions relating to electronic transactions. It was sponsored by Senator Kieckhefer and heard in this Committee on June 2, 2019. There are no amendments to this measure ([Exhibit D](#)).

Chairman Yeager:

Are there any questions on S.B. 162 (R1) as detailed in the work session document? [There were none.] I will take a motion to do pass S.B. 162 (R1).

ASSEMBLYMAN ROBERTS MADE A MOTION TO DO PASS
SENATE BILL 162 (1ST REPRINT).

ASSEMBLYWOMAN TORRES SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN DALY, EDWARDS, HANSEN, KRASNER, MILLER, AND TOLLES WERE ABSENT FOR THE VOTE.)

Chairman Yeager:

I will assign the floor statement to Assemblyman Roberts, but we probably will not be doing them today.

We will move on to our agenda. I see that we have former Assemblyman and now Senator Ohrenschall with us, so I will take the bills out of order because I know Senator Ohrenschall has a lot going on today. I will open the hearing on Senate Bill 245 (2nd Reprint).

Senate Bill 245 (2nd Reprint): Revises provisions relating to civil actions. (BDR 3-965)

Senator James Ohrenschall, Senate District No. 21:

Today I am presenting Senate Bill 245 (2nd Reprint), which has to do with victims and trying to make sure that, if possible, a victim can be made whole, which, in my opinion, is the goal of tort law: trying to do the best we can to restore someone to where they were before they were injured through no fault of their own. In this case, it is where the wrongdoing to the victim happened by a governmental entity. Currently, what we call the sovereign immunity

cap is set at \$100,000. As most of us are aware, for someone who has been injured or spends time in the hospital, that may not even cover their medical bills. Senate Bill 245 (2nd Reprint) looks at trying to increase that sovereign immunity cap. I have some tremendous experts here, and I would like to turn it over to them.

Chairman Yeager:

Thank you for being here, Senator Ohrenschall, and if we have questions, we will find you somewhere in the building.

Matthew L. Sharp, representing Nevada Justice Association:

Mark Wenzel and I are here to explain S.B. 245 (R2). Currently, the law is that if you are injured due to no fault of your own and that injury happens to occur by any government worker, your damages are limited to \$100,000. I want to point out that there are two types of damages. There are economic damages—which are wages, medical bills, et cetera—and then noneconomic damages, which are your physical pain, suffering, mental suffering, and mental anxiety. The cap is \$100,000, period. If you have \$200,000 in medical bills, all you get is \$100,000. That is not just and it is not fair. We are trying to get to something that is more fair. We have been in negotiations and discussions with various governmental entities on the Senate side, recognizing that counties and cities have budget issues and they have to allocate tort claims. Hopefully, we have reached a negotiation which is as fair as we can make it.

Under this bill, in 2020, the cap will increase to \$150,000. In 2022, the cap will increase to \$200,000. The purpose is to give the counties and cities time to adjust to the cap to get some idea of what the experience is in terms of their actual claims history, and then, perhaps in 2023, we may come up with another proposal to make the situation fairer for those who are catastrophically injured. I want to point out that this is something that we are designing for those who are catastrophically injured to try to get them some ability to have a normal life.

Mark C. Wenzel, representing Nevada Justice Association:

There is a reason why this became such an important issue for me—behind me is a gentleman by the name of Alan McMahon. Mr. McMahon and his brother contacted me after Mr. McMahon was involved in a catastrophic motor vehicle accident at the hands of a state actor who had turned out to be under the influence of drugs at the time he injured Mr. McMahon. Mr. McMahon spent quite a bit of time in the hospital and, as you and the members may see, he tragically lost his leg in that accident. After my staff did some research and found out that the \$100,000 was, in fact, the most that Mr. McMahon would be able to recover, this became a very important issue, and I think he puts a face on this bill. It is a result of his motivation to try to do something for others who are similarly situated in the future. I think this is an extraordinarily important bill. I would like to thank you, Mr. Chairman and members of the Committee, for hearing us and hopefully passing this bill.

Alan McMahon, Private Citizen, Kings Beach, California:

[Mr. McMahon spoke from ([Exhibit E](#)).] I need you to know just how devastating this cap has been to me on top of losing my leg. If voted in, this bill will not help me, but I will at

least have tried to help others by just getting the word out about this absolute failure to compensate victims in cases of gross negligence resulting in injury. The Nevada Department of Transportation hired a meth addict to drive a 20-ton snowplow on the highway, who then totaled me and my truck when he crossed the center, hitting me head-on. I am now on social security disability insurance of \$1,542 a month for the rest of my life. I am 62. I am told amputees die way sooner because of blood circulation, and a third never walk again.

Since the crash, I spent five weeks in the hospital, three weeks in Manor Care for convalescence, then endless doctor, prosthetic, physical therapy, and human resource sessions, not my usual active self as a carpenter and avid tennis player, which is why we die sooner, I guess. I have lost out of pocket over half a million dollars in lost wages—I could break it down to you how, but I have lost \$700 a month in my regular retirement wages, lost wages—and not getting full retirement of \$2,298 at age 70. Your offer of a possible \$100,000 does nothing for me to curb my losses, not to mention quality of life. I put in my claim and so far have heard nothing. This is a living nightmare. It is not right. It is not fair—maybe in a third-world country, but not in the United States of America. The bill was originally \$1 million for gross negligence with a retro amendment; both are gone. Then it was \$250,000, now that is gone. Now a possible \$150,000 in 2020, which is a start. It is a daredevil act just to be in Nevada for all of its citizens and visitors, even you! I will continue to work with the media to get the word out. I wish it was not too late to make this right. I am not just a stray dog you can run over and keep going. This is not just a defamation case or an inconvenience or a spilled coffee. I am guessing a zero compensation would be the ultimate victory for you, I am sorry to say.

Chairman Yeager:

Thank you for being here this morning and sharing your testimony. We are very sorry about what happened to you, but thankful that you are here to tell us what this bill would mean to people in the future.

One question that I had—I was looking at the different iterations of the bill and we are on the second reprint. As Mr. McMahon said, it started higher and I am assuming we are where we are and that is through the process of negotiation with the other interested parties on this bill. Would you comment on the process that brings us to the second reprint today?

Matthew Sharp:

As originally proposed, the bill increased the cap to \$250,000 in all cases and in cases of gross negligence would have provided \$1 million. That was not feasible with the government budgets, regardless of what is just or not. From there, we negotiated to what you now have in the current bill, which is \$150,000 in 2020 and \$200,000 in 2022.

One point I should have made earlier but I will make now is that this cap still puts us as one of the lowest in the country, if not the lowest. Our neighbors in Utah, Arizona, Washington, and California—many have either no cap or a significantly fairer cap, but we are dealing with budgetary realities. This is the proposal we bring forward to you, which I think is the best under the circumstances for Nevada citizens.

Chairman Yeager:

I think we can all relate to the fact that the bills we introduce do not often look the same by the time they get to the end of the process. I, for one, think this is a really important bill. Part of our system of justice is that wrongdoers need to make victims whole and it has always disturbed me that the cap in our state was so low. I understand that even by raising it to the level that we are at, it is not going to cover these catastrophic injuries that we have in front of us today. I also agree that we need to start somewhere.

Assemblywoman Krasner:

I read about your case in the *Reno Gazette Journal*. I am very sorry about what happened to you and very sorry that our state has inadequate compensation for a victim like you who was damaged and harmed through no fault of your own. I hope we can do something today to help you.

Alan McMahon:

I do too; thank you.

Chairman Yeager:

Are there any additional questions from the Committee members? [There were none.] Is there additional testimony in support of S.B. 245 (R2)? [There was none.] Is there anyone opposed to S.B. 245 (R2)? [There was no one.] Is there any neutral testimony? [There was none.] Seeing that we did not have any additional testimony, concluding remarks are waived. I will close the hearing on S.B. 245 (R2).

Before we move on to the next bill, Committee members, given that we are on Day 120, I would be looking for a motion to do pass Senate Bill 245 (2nd Reprint).

ASSEMBLYWOMAN KRASNER MADE A MOTION TO DO PASS
SENATE BILL 245 (2ND REPRINT).

ASSEMBLYWOMAN NGUYEN SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN DALY WAS ABSENT FOR
THE VOTE.)

Chairman Yeager:

I will open the hearing on Senate Bill 44 (2nd Reprint). We waited all 120 days to welcome our State Treasurer, Mr. Conine, to the Assembly Judiciary Committee.

Senate Bill 44 (2nd Reprint): Revises provisions of the Uniform Unclaimed Property Act. (BDR 10-480)

Zach Conine, State Treasurer:

It is my pleasure to be here to present what could be the ultimate bill of the Assembly Judiciary Committee. Senate Bill 44 (2nd Reprint) broadly makes technical changes to

Nevada's unclaimed property statute in an effort to modernize and align Nevada's unclaimed property laws with national best practices and the Uniform Law Commission's 2016 Revised Uniform Unclaimed Property Act (RUUPA). Pursuant to *Nevada Revised Statutes* (NRS) Chapter 120A, the Office of the State Treasurer administers Nevada's unclaimed property program. In its role, the Treasurer's Office takes custody of lost or abandoned property from individual and business holders and works to reunite it with its rightful owners. When property cannot be reunited with its owner, it is held in trust in perpetuity. There are two groups of sections to the bill, so I will walk through those.

The first is RUUPA and statutory cleanup. Sections 2, 3, 7 through 12, and 15 of S.B. 44 (R2) utilize national trends and the Revised Uniform Unclaimed Property Act to provide updates to Nevada's unclaimed property laws. Section 12 incorporates RUUPA language into Nevada's statute by clarifying that it is the holder's responsibility to ensure reports are filed accurately and timely regardless of any contract with a third party. It also requires that holders file reports electronically.

Similarly, section 15 also incorporates RUUPA language by imposing a fee on holders for failing to utilize online reporting as required by section 12. Sections 4, 5, 6, and 14 help to refine and strengthen Nevada's unclaimed property statutes. Section 4 provides a means for data sharing between the Treasurer's Office and other Nevada state agencies. Sections 5 and 6 add additional means to prosecute those who have engaged in unclaimed property fraud. Currently, unclaimed property fraud is prosecuted broadly under NRS Chapter 205's larceny section. Section 14 creates a means for third-party governmental agencies to claim unclaimed property in order to pay child support, civil or criminal funds, or any state or local taxes.

Assemblyman Daly:

If someone commits fraud and tries to claim property that is not theirs and acts like they are someone else, I think you have a level in there at \$650 that is a class C felony. I know this Committee and others in the past have raised—I think there might even be a bill this session that is raising the dollar amount, before you get above a misdemeanor, to \$1,200. I am wondering why we are so low on that and making it a much higher penalty at \$650 and why we are not in alignment with the \$1,200 that I understood was in other legislation this year for those types of things.

Zach Conine:

We were reached out to by the public defender's offices—north and south—and we wrote this section with their help to try to align with any changes that would happen in NRS 193.130. That is the best answer I have for you. Our intention was to align those between the statutes.

Assemblyman Daly:

I understand what you are saying. If you are in a store shoplifting, maybe that is different. There is another statute for fraud, specifically having a \$650 limit elsewhere in NRS and then the class C felony—is that what your answer was? It is a much lower threshold on the

dollars and it is a much higher penalty than other types of theft, or is there a specific thing for fraud that you are talking about because it is fraud and you did all this other stuff that there is a higher penalty and a lower threshold? If it is matching some other statute, I am okay. I am looking at the low dollars and we are going to send people to jail for a year over that.

Zach Conine:

That was the intention.

Assemblywoman Cohen:

Section 14, subsection 6, is the property that can be claimed for payment of a debt, and I am wondering if there is a way for creditors to know that that money is available. For instance, for child support, is there communication with child support enforcement? With the average person, how do they know the money is there?

Zach Conine:

In section 4 of this bill, our intention was to increase data sharing. Historically, a lot of the offices do not talk as often as they should, so our intention is to increase that communication. We have found that in child support, and in other cases where there is a need for resources, those agencies are looking for them so they reach out to us, and we need a vehicle in order to transmit that property.

Assemblywoman Cohen:

But there is not going to be a website where information is available to the public? How is the average person going to find out?

Zach Conine:

Currently, all property that we hold in perpetuity that is unclaimed, whether it is for an individual or some other individual, is available through our website, www.nevadatreasurer.gov, and people can search for themselves, for other family members, or people who owe them money.

Assemblywoman Krasner:

Did I hear you say that if people do not file online, there is a penalty?

Zach Conine:

Unclaimed property on the holder side—a company that has unclaimed property—there is a requirement that they file every year and tell us that they either have unclaimed property and remit as such to the state, or that they have no unclaimed property. We have been pushing people to the electronic portal over time—as is the Uniform Code—because when information is submitted electronically, there is a much higher correlation to being actually returned to the owner of that property. Our intention is to push everyone through that portal, which is easier, quicker, and cheaper, both for our office, for the state, and for all claimants of the property.

Assemblywoman Krasner:

I appreciate that; however, there are a lot of senior citizens who still are not electronically savvy and Internet savvy, and I would hate to have any type of penalty against a senior who is trying to get their property merely because they are making an attempt but they are not savvy as to the Internet process.

Zach Conine:

Specifically, this is filing from businesses that they have unclaimed property to give back to someone as opposed to the claimant coming to get their property. Claimants can get their property—the older individual in your example—by coming into the office, calling our office, or filling out the form online. This is simply for companies, banks, businesses, et cetera, who are remitting unclaimed property in the first place. They are giving it up as opposed to pulling it back in.

Assemblywoman Torres:

In this session, we learned a lot about the rules against perpetuities, so it is a little confusing. It seems to me there is an existing law for perpetuity with this type of property. Would you explain that?

Zach Conine:

We do maintain unclaimed property in perpetuity. If unclaimed property was turned over to our office that was found at any point in time, we will retain that money until the Nevadan who deserves it comes and gets it.

Assemblywoman Torres:

It does not go away after 21 years?

Zach Conine:

It does not go away after 21 years. That property will be there when you go for it.

Chairman Yeager:

Are there any additional questions for Treasurer Conine? [There were none.] Is there anyone in support of S.B. 44 (R2)? [There was no one.] Is there anyone opposed to S.B. 44 (R2)? [There was no one.] Is there any neutral testimony?

Cathy Kaplan, Chief, Child Support Enforcement, Division of Welfare and Supportive Services, Department of Health and Human Services:

If this bill passes, it gives us an additional collection source.

Chairman Yeager:

Is there anyone else in the neutral position? [There was no one.] It also looks like concluding remarks are waived. I will close the hearing on S.B. 44 (R2).

I think the point Assemblyman Daly was making was that the provision about \$650 aligns currently with our statute where petit larceny is, but there is some legislation moving through

the session that might change it to \$1,200. What I do not want to do is jeopardize this bill by requesting an amendment on Day 120, so I think assuming our other pieces of legislation pass, we may have to come back and look at it next session to align it. I do not want the Treasurer mad at me if we try to amend his bill and it does not get done today.

We are going to do a work session and I will take a motion to do pass S.B. 44 (R2).

ASSEMBLYMAN FUMO MADE A MOTION TO DO PASS
SENATE BILL 44 (2ND REPRINT).

ASSEMBLYWOMAN TORRES SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairman Yeager:

I will assign the floor statement to Assemblyman Fumo if we do floor statements.

Is there any public comment either in Carson City or Las Vegas? [There was none.] Committee members, we do not have anything else in our Committee at the moment. I do not believe we are going to get anything else. I am not sure about it, as anything is possible, so we are going to end up being in recess just in case we get another bill unexpectedly today.

Before we close, because this might be the last meeting we have together and probably the last one in this room, I want to take the opportunity to thank all of you. I think it has been an incredibly productive session in the Assembly Committee on Judiciary. If you are like me, I cannot even remember some of the bills that we heard at the beginning of the session, but it is very gratifying to see some of the bigger pieces of legislation that we considered moving through the process and on the way to the Governor's desk. I want to thank all of you for being a great Committee. It has been a pleasure and an honor to serve with all of you.

I also want to thank our amazing staff. I know I am probably a little biased, but I think Assembly Judiciary has been an incredibly well-run Committee and that is a credit to our hardworking staff. They do all the real work, and I just show up and open the meetings and off we go. Thank you to the staff who are here and to those who are listening. They do all the real work behind the scenes and they have made my life very easy. Thank you for that.

Before we go into recess, I will give members an opportunity if there is anything they would like to say. There is no obligation. [There was nothing.] We will stand in recess until the call of the Chair, but I do not believe we are going to have any other business.

A couple of you are on conference committees. I am not sure when those conference committees for a couple of Senate bills are going to meet, but we are going to try to make that happen before floor today, so make sure that you are either checking your email or your phone, or your attaché is doing the same, because we would like to try to get those done.

Those are for two Senate bills that I am not going to mention so we do not have to put them in the minutes.

We are in recess until the call of the Chair [at 8:42 a.m.].

The meeting was adjourned [at 11:59 p.m.].

RESPECTFULLY SUBMITTED:

Linda Whimple
Committee Secretary

APPROVED BY:

Assemblyman Steve Yeager, Chairman

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is the Work Session Document for Senate Bill 3 (1st Reprint), dated June 3, 2019, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit D](#) is the Work Session Document for Senate Bill 162 (1st Reprint), dated June 3, 2019, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit E](#) is written testimony submitted by Alan McMahon, Private Citizen, Kings Beach, California, dated May 29, 2019, in support of Senate Bill 245 (2nd Reprint).