

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Eighty-third Session
May 15, 2025**

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 1:05 p.m. on Thursday, May 15, 2025, in Room 1214 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 6 of the Nevada Legislature Hearing Rooms, 7120 Amigo Street, 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 Melanie Scheible, Chair
Senator Edgar Flores, Vice Chair
Senator James Ohrenschall
Senator Roberta Lange
Senator Rochelle T. Nguyen
Senator Ira Hansen
Senator Lisa Krasner
Senator John Ellison

GUEST LEGISLATORS PRESENT:

Assemblymember Shea M. Backus, Assembly District No. 37

STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Brad Wilkinson, Committee Counsel
Michael Scully, Committee Counsel
Linda Hiller, Committee Secretary

OTHERS PRESENT:

Michael Buckley, Director, Real Property Law Section, State Bar of Nevada
Jane Sternecky, Uniform Law Commission
Brandon Buchholz

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CHAIR SCHEIBLE:

I will start by opening up the work session on Assembly Bill (A.B.) 25.

ASSEMBLY BILL 25 (1st Reprint): Revises provisions relating to offenders.
(BDR 16-296)

JERED McDONALD (Committee Policy Analyst):

Assembly Bill 25 revises provisions related to offenders. This bill was brought by the Department of Corrections and heard on May 2. It requires Nevada's Department of Corrections to provide women who are incarcerated access to annual pelvic examinations and mammography based on certain factors such as age, family medical history, healthcare provider recommendations or other health-related risks.

There are no amendments proposed for this bill. I have submitted the work session document (Exhibit C).

CHAIR SCHEIBLE:

Not seeing any questions, I would accept a motion to do pass.

SENATOR NGUYEN MOVED TO DO PASS A.B. 25.

SENATOR OHRENSCHALL SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHEIBLE:

That takes us to A.B. 137.

ASSEMBLY BILL 137 (1st Reprint): Revises requirements for the advertising of a sale of personal property to satisfy the lien of an owner of a facility for storage. (BDR 9-183)

MR. McDONALD:

Assembly Bill 137 was sponsored by Assemblymember Selena Torres-Fawcett and others and heard on May 9. This bill revises requirements for advertising the sale of an occupant's personal property to satisfy a lien held by the owner of a

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storage facility. More specifically, an owner must either advertise the sale for two weeks beforehand in a newspaper of general circulation in the county where the sale is to be held or advertise the sale for ten days beforehand on a website that customarily advertises or conducts sales of property.

We have one amendment proposed for this bill. I have submitted the work session document ([Exhibit D](#)) that, as I understand it, removes the opposition from the journeymen. However, I am not sure about the other individuals who came in to testify on this bill.

CHAIR SCHEIBLE:

I would accept a motion to amend and do pass A.B. 137.

SENATOR NGUYEN MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 137.

SENATOR LANGE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS ELLISON AND KRASNER VOTED
NO.)

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CHAIR SCHEIBLE:

That takes us now to A.B. 194.

ASSEMBLY BILL 194 (1st Reprint): Prohibits the release of certain balloons that are lighter than air under certain circumstances. (BDR 15-338)

MR. McDONALD:

Assembly Bill 194 was sponsored by Assemblymember Sandra Jauregui and heard on April 28. This bill prohibits the intentional release, organization or intentional causation of the release of a balloon inflated with a gas that is lighter than air. It sets a civil penalty up to \$250 for a single violation and authorizes the Attorney General, district attorney or city attorney to bring civil actions to recover penalties and enjoin violations.

There are no amendments proposed for this bill. I have submitted the work session document ([Exhibit E](#)).

SENATOR NGUYEN MOVED TO DO PASS A.B. 194.

SENATOR OHRENSCHALL SECONDED THE MOTION.

SENATOR HANSEN:

I will be voting no. I think that balloon makers themselves have been working very hard to try to make balloons out of materials that will not harm electrical lines. And the whole bill overall just seems a little bit excessive and makes me concerned that people who very innocently released balloons could find themselves in violation of law, so I will be a no.

THE MOTION CARRIED. (SENATORS ELLISON, HANSEN AND KRASNER VOTED NO.)

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CHAIR SCHEIBLE:

Okay, that takes us to A.B. 209.

ASSEMBLY BILL 209 (1st Reprint): Provides immunity from criminal liability for engaging in prostitution or solicitation for prostitution. (BDR 15-781)

MR. McDONALD:

Assembly Bill 209 was sponsored by Assemblymember David Orentlicher and heard on May 13. This bill provides immunity from criminal liability to a prostitute who seeks emergency or medical assistance if the evidence for the alleged prostitution or solicitation of prostitution is obtained as a result of the assistance. This applies to any offense committed on or after October 1, 2025.

We do have one amendment proposed by Assemblymember Orentlicher. I have submitted the work session document ([Exhibit F](#)).

SENATOR NGUYEN MOVED TO AMEND AND DO PASS AS AMENDED A.B. 209.

SENATOR OHRENSCHALL SECONDED THE MOTION.

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THE MOTION CARRIED. (SENATORS ELLISON, HANSEN AND KRASNER
VOTED NO.)

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CHAIR SCHEIBLE:
I will open the work session on A.B. 239.

ASSEMBLY BILL 239 (1st Reprint): Revises provisions relating to business
entities. (BDR 7-669)

MR. McDONALD:

Assembly Bill 239 revises provisions related to business entities. This was sponsored by Assemblymember Joe Dalia, and it authorizes the articles of incorporation of a corporation to require certain internal actions to be tried before a judge and not a jury. It also authorizes boards of directors to act on agreements, instruments, certificates or other documents in final or preliminary form as deemed appropriate; revises steps for the board approval of merger conversion or exchange plans, and removes provisions allowing the board to cancel a meeting to consider such plans.

There are no amendments proposed for this bill. I have submitted the work session document (Exhibit G).

SENATOR NGUYEN MOVED TO DO PASS A.B. 239.

SENATOR HANSEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHEIBLE:
That takes us to A.B. 245.

ASSEMBLY BILL 245 (1st Reprint): Revises provisions relating to firearms.
(BDR 15-648)

MR. McDONALD:

Assembly Bill 245 revises provisions related to firearms. This was sponsored by Assemblymember Jauregui and heard on March 27. This bill prohibits a person who is less than 21 years of age from handling, possessing or controlling any semiautomatic shotgun or centerfire rifle, except for those engaged in certain shooting activities or who are law enforcement officers or members, honorably discharged members of the United States Armed Forces or reserves, or a member of the National Guard.

We have no amendments on this bill. I have submitted the work session document ([Exhibit H](#)).

CHAIR SCHEIBLE:

I did just want to make one note that we heard this bill back on March 27 in our joint hearing as it is an Assembly bill. There was an amendment made on the Assembly side which has already been incorporated into the first reprint that you have in your packet today on Assembly Bill 245. We've not had a subsequent hearing since that amendment was made, but since it has already been adopted, the motion will still be to do pass, not amend and do pass.

I wanted to make sure everybody was aware of those small changes which Mr. McDonald did just go over in the summary.

SENATOR NGUYEN MOVED TO DO PASS A.B. 245.

SENATOR FLORES SECONDED THE MOTION.

SENATOR HANSEN:

First of all, I want to compliment you on the way you ran that committee hearing. It was very fairly done, and everybody got more than an equal opportunity to express their concerns. I expressed them extensively. I've still got the same problems. Look, you've got people that are 20 years of age, and they are not going to be able to own a semiautomatic shotgun or even handle one or have one in their possession. So that is just one example of really where this bill goes way, way, way too far. We are also dealing with a Second Amendment issue, so I will be a strong no on this one.

SENATOR ELLISON:

Most women like the automatic shotguns because they don't have the recoil. One of the things that was said in that committee was that you can borrow a gun, but they passed that law several years back that said you cannot transfer a weapon to one person. You'd have to turn that into a shop at a gun store, and then the gun store would have to resell it to them, and they'd have to reverse that all over again. So, I am a strong no based on the fact that it should be based on the person and their ability to shoot and handle the weapon.

THE MOTION CARRIED. (SENATORS ELLISON, HANSEN AND KRASNER VOTED NO.)

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CHAIR SCHEIBLE:

That takes us to the last bill on our agenda for this work session, A.B. 321.

[ASSEMBLY BILL 321 \(2nd Reprint\)](#): Revises provisions relating to offenders.
(BDR 16-1015)

MR. McDONALD:

Assembly Bill 321 revises provisions related to offenders. This was sponsored by Assemblymembers Jovan A. Jackson, Reuben D'Silva, Cecilia González, PK O'Neill and others, and heard on May 6. This bill requires a State Forester Firewarden to establish a competitive hiring program for former offenders who worked in conservation camp firefighting programs. The bill also authorizes Nevada's Department of Corrections, in partnership with the Division of Forestry, to establish a transitional housing program. There are no amendments proposed for this bill. I have submitted the work session document ([Exhibit I](#)).

SENATOR FLORES MOVED TO DO PASS A.B. 321.

SENATOR OHRENSCHALL SECONDED THE MOTION.

SENATOR HANSEN:

I just wanted to compliment Assemblymember Jackson for presenting the bill so well and for working so diligently with Department of Corrections. I think it is a great program, and I hope that'll help a lot of people make that transition when

they get back out after they paid their debt to society and make a nice smooth transaction back into the rest of society. I thought it was very well done, and I just thought that since he is here, I would give him a little compliment.

CHAIR SCHEIBLE:
Thank you, and I agree.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHEIBLE:
That brings us to the conclusion of our work session. We will now move into our only bill hearing for the day on A.B. 192.

ASSEMBLY BILL 192 (1st Reprint): Makes various changes relating to real property. (BDR 10-971)

ASSEMBLYMEMBER SHEA M. BACKUS (Assembly District No. 37):
It is my pleasure to present Assembly Bill 192 along with Michael Buckley of Fennemore Law in Las Vegas. He also is also the chair of the Real Property Law Section. We also have online today Jane Sternecky, who is the legislative counsel for the Uniform Law Commission (ULC). I am also here in my capacity as a Commissioner for the ULC. I have the privilege of serving as one of our numerous Nevada commissioners. Senator Ohrenschall on this committee also serves as a commissioner alongside two of our other colleagues.

The ULC was established in 1892 to provide states with nonpartisan well-conceived and well-drafted legislation. The ULC's deliberate and uniquely open drafting process draws on the expertise of commissioners but also utilizes input from legal experts, advisors and observers representing the views of other legal organizations and interests that will be subject to the proposed law. The ULC stays up to date by addressing important and timely legal issues.

Assembly Bill 192 includes the Uniform Easement Relocation Act and the Uniform Mortgage Modification Act. The Uniform Easement Relocation Act was approved by the ULC in 2000 to modernize a common-law rule that gave easement holders absolute powers to restrict development of land burdened by an easement. The Uniform Mortgage Modification Act, approved by the ULC in

2024, clarifies and simplifies the law governing modifications of residential and commercial mortgages.

MICHAEL BUCKLEY (Director, Real Property Law Section, State Bar of Nevada):
The Uniform Easement Relocation Act basically allows the owner of a property that is to be developed to relocate an easement on the property if the relocation fits certain requirements under the Act.

The example I have given in my memorandum ([Exhibit J](#)) is a Nevada case, *St. James Village, Inc. v. Cunningham*, 125 Nev. 211, 210 P. 3d 190 (2009), where the developer of a 1,600-acre project wanted to put some curves in a road on the property that was under development, and the beneficiaries of the easement, which was two small lots, wouldn't agree to it. *St. James* went to the court, and the court adopted a liberal rule of law, the restatement allowing relocation, but it didn't allow relocation if the easement was described. What this law does is it sets up a procedure for certain types of easements that can be relocated through a court proceeding.

In the bill, the Uniform Easement Relocation Act is sections 2 through 32, and the Uniform Mortgage Modification Act is sections 34 to 50. Sections 4 to section 21 contain definitions.

I would like to point out the definition in section 12.3 of "public entity" includes the United States, this State, a general improvement district, a municipal corporation and a special assessment district. This is a change to the Uniform Law. This Act was brought up in 2021 and faced objection from municipalities because it allowed relocation of municipal easements. What we've done through the State Bar of Nevada and working with the Uniform Law Commission is add this so the easements that can be relocated do not include an easement owned by a public entity.

Utah faced the same problem when they considered this law. They did enact a law similar to what you're looking at now with changes from the Uniform Law in Nevada. We really considered the Uniform Easement Relocation Act to address property that is under development. We therefore excluded common-interest communities from the bill so that an easement created by a declaration in the common-interest community is not subject to relocation.

After the definitions, section 22 is the critical section that says the easement can be relocated. However, it cannot be used to locate a public utility easement, a public entity easement, a conservation easement, a negative easement or an easement associated with a public road. It also excludes an easement created by a declaration in accordance with the provisions of *Nevada Revised Statutes* (NRS) 116. Those are referred to in the Act as the "eligibility requirements."

Section 23 is critical, and those are the standards by which the court will consider relocating the easement. Basically, the court has to find that the relocation of the easement is not going to lessen the benefit of the easement or increase the burden, impair the purpose of the easement, disrupt the use and enjoyment of the easement by the easement holder or impair the value of the collateral or any leasehold interest. So section 23 has all the provisions a court would have to consider in order to relocate the easement.

Section 24 outlines the procedure—it says there has to be a summons, who has to be served by the complaint and also the contents of the complaint.

Section 25 deals with the order that the court would enter if it approves the relocation.

Section 26 is another important provision. Basically, this says that the person seeking to relocate the easement has to pay all the costs.

Section 27 is a basic requirement that basically says the parties have to act in good faith.

Section 28 deals with the requirements if there's going to be any construction associated with the relocation.

Section 29 has some legal concepts saying that the relocation is not a new easement; it is the same easement.

Section 30 is also important, saying that even if the easement has a legal description or the easement document says it can't be relocated, the Act would prevail over the contents of the agreement.

Section 31 and section 32 are customary uniform provisions that the Act will be interpreted in accordance with interpretations in another state in a uniform manner.

The importance of a Uniform Act in a state like Nevada where we don't have as many court decisions is that we have an Act that's been well thought out with official comments. Also, if another state has enacted it, a Nevada court can look to the decisions in those other states where they consider the same language, and that helps interpret the law and make it clear.

Sections 34 through 50 are the Uniform Mortgage Modification Act, and I believe this Act was adopted recently in Utah. Basically, the purpose of this law is that it deals with the following scenario: there's a senior mortgage and a junior mortgage, and the common law basically says that if a senior mortgage is modified in a way that adversely affects a junior mortgage, then that modification loses priority to the junior mortgage. The problem this Act tries to solve is that there's a lot of uncertainty as to what exactly constitutes a material adverse effect on this junior mortgage.

What this law does is create safe harbors and enlists ten different types of modifications. It also says that if these modifications are done to the mortgage, these will not affect priority. One of the important purposes of this law is that it allows a lender and a borrower a greater freedom to negotiate—in the case of a loan where there's a default or something—to avoid foreclosure and work something out, giving the parties a greater freedom.

On page 13 of A.B. 192 are the lists of the types of modifications that are the safe harbors, for example: an extension of the maturity date, a decrease in the interest rate or other provisions that allow modifications of escrow or reserve requirements. Another important change is a modification of an existing condition to advance funds. That is very important in the area of construction loans because they have all these conditions to advance funds. If there is a glitch in the development of a project, the lender is faced with arguments that have been made in other states saying, "Well, the lender is going to advance the funds even though they didn't have to, and therefore they're going to lose priority." This would say, "It's obviously in the benefit of the project to keep it going so that a modification of a condition to advance funds would also be a permitted safe harbor."

Sections 49 and 50 are the same types of customary uniform provisions.

SENATOR NGUYEN:

Were there any amendments since the presentation that came from the Assembly? Also, thank you for the memo, [Exhibit J](#).

ASSEMBLYMEMBER BACKUS:

No, we have not done any further amendments. You are probably looking at a first reprint.

SENATOR NGUYEN:

I was reading this memo, and I have had the opportunity to briefly pull up S.B. No. 106 of the 81st Session. Obviously, [A.B. 192](#) is brought with some modifications to hopefully address some of the concerns that were present in 2021, and it sounds like other states had some concerns, including our neighboring state of Utah. Am I still correct in understanding that as well?

ASSEMBLYMEMBER BACKUS:

You are correct. That was what Mr. Buckley was going into when we were talking about the public easements. Those were pretty much addressed in our actual first draft, not even in an amendment. We did that when we brought it before the Legislature in [A.B. 192](#) as introduced.

SENATOR NGUYEN:

Senate Bill No. 106 from the 81st Session did not include the Uniform Mortgage Modification Act which you are trying to include here in this bill. Can you explain why that is being brought in this bill and it was not brought before? Is it just, "Hey, we want to also add this uniform law as well," or do these have to be viewed together as a part of any piece of legislation moving forward in our State?

ASSEMBLYMEMBER BACKUS:

First of all, one reason is that the Uniform Mortgage Modification Act hadn't been adopted by the Uniform Law Commission until 2024. So when S.B. No. 106 of the 81st Session was introduced in 2021, the Uniform Law Commission was probably in the preliminary stages of starting to work on the Uniform Mortgage Modification Act.

For those who don't know, when we're doing acts for the Uniform Law Commission, they usually go over a two-year or more process wherein if you have a study committee before the act, then it could go an extra year. We read it the first summer we were working on it before the whole body, just to get more input from the commissioners. Then it's worked on with observers for another year before we finally put it before the entire body which includes representatives from each and every state to get it approved. That is one reason. The second reason is this is a typical Shea Backus-type bill, where I will try to squish in a couple things to make it a little longer, but it covers a little more.

SENATOR NGUYEN:

I understand that the Uniform Easement Relocation Act portion of the bill will provide some clarity. Do we have the same kind of issues when it comes to our existing laws around mortgage modifications like that section? Do we need to have this part of the bill because we have the same kind of confusion and clarity for practitioners in this area?

ASSEMBLYMEMBER BACKUS:

I will have Mr. Buckley touch on this, but I have actually experienced this personally in my own practice because I do some mechanical lien law. This is a little different; it goes more to a simple refinancing—and I don't want to say simple because I am sure it's more complicated than that—but they list certain specific areas. Before, there was some common law we would look to when looking at whether a subsequent mortgage could skip any of the other lienholders to go to that first place. This delineates it in statute to make it more clear.

I know Senator Hansen is a contractor, and I just looked through the list when he was talking about construction. I think he was talking about loans that may be on the property. Whereas with mechanic liens, this would obviously have to be read simultaneously with priority to NRS 108.

MR. BUCKLEY:

This area is even more unclear than anything. In fact, I'm the editor of the *Nevada Real Property Practice and Procedure Manual and Procedure* that the State Bar of Nevada published in 2021. I put together the cases and the section on mortgage modifications and which modifications adversely affect and which don't, and it's all over the board. In the Easement Relocation Act, we actually

did have a Supreme Court case, but in this case, there's even less guidance. This is a really important step forward.

SENATOR ELLISON:

I still believe in a seller and a buyer negotiating things out. To me, whenever somebody comes up and says, "Hey, I want to take this property or buy this property from you or trade a piece of property for this corner," and you say no and he takes you to court, that is a taking. Is that not right?

MR. BUCKLEY:

This does not involve a situation between a seller and a buyer. It's more about a situation with a person who owns property, and they want to develop that property, and there is some kind of an easement, perhaps a driveway, that affects the development of the property. Say the owner of that easement is the owner of the property next door, and the person who wants to develop the property says, "Gee, I would like to relocate my driveway. I would like to relocate your driveway on my property, and I will move it over and you'll have the same access." But the person next door knows this is a big project and someone will make a lot of money on this, so they say no.

One of the great things about this bill is that because there's the bill to relocate an easement, I think it gives greater impetus to the parties to negotiate a relocation. But again, it does not involve a buyer and a seller. It involves a person who owns property, and they want to move an access or something on their property to another location without adversely affecting that access.

SENATOR ELLISON:

I've done this also and had to move an adjustment line between two pieces of commercial property. So we went to the title company, and it was done in no time at all. We moved the property line and straightened his up and straightened mine up all at the same time, and it worked out good. But the guy that owns the easement out front is still impacting the private property at the house. Is that not correct?

ASSEMBLYMEMBER BACKUS:

Let me chime in here because I think you may be thinking of it in the reverse with lot line adjustments. That's obviously like something where someone's going to acquire either more of your property or you have to acquire more of the adjacent property for purposes of ownership. For the easement, it's usually like

a temporary or long-term usage. I believe we probably had it as an exhibit, [Exhibit J](#), the Uniform Easement Relocation Act summary which gives a really good picture of where you have lot A and lot B where maybe the easement originally, lot B was a blank lot. So there was an access road to lot A, the back road, but then someone wants to develop lot B.

The owner of lot B wants to move the easement that's going through their parcel to maybe along more the border of the parcel to get to lot A. So they're still giving the person who owns lot A access through lot B, but the owner of lot B is the one that has the easement that they have to deal with. Does that make sense?

SENATOR ELLISON:

It does if it's on the same property line; I agree with you if it's on the same parcel, that makes sense. But if it's not on the same parcel and it's out into a driveway, or say you're trying to move it to where you can get access to hit the corner or something, then it's a different story. If it's between two private properties, in between it, usually that could be worked out.

ASSEMBLYMEMBER BACKUS:

Senator Ellison, I just want to chime in. I do not know if sometimes lot line adjustments can easily just be worked out. I did spend the week after our probably last special session in 2023 in court in Reno litigating a property line adjustment. So those still go to court.

SENATOR ELLISON:

Yeah, I just did two of them and both on commercial properties, and it worked out really good. One was with the City of Elko and one was with private property. But sections 34 and 35, the Uniform Management Mortgage Modification Act, is that in Nevada law?

MR. BUCKLEY:

The Uniform Easement Relocation Act is not presently the law of Nevada. The Supreme Court has adopted the restatement, which is very similar to it, but this would be a modification to that.

SENATOR HANSEN:

We had a very thorough discussion on the bill. I just want to make sure on the record that this has absolutely nothing to do with public easements on public

property, RS 2477 easements [for the construction of highways on public lands], prescriptive easements, things like that. Just want to get it in the minutes that this bill in no way impacts any of those. Correct?

ASSEMBLYMEMBER BACKUS:
That is correct.

SENATOR OHRENSCHALL:

If this passes, do you think there will be less litigation about easements because the law is more clear? Do you think that this will help alleviate some of the lengthy litigation regarding easements on private property? And I wonder if you could talk a little bit about that with your extensive experience in property law.

MR. BUCKLEY:

First of all, there are two kinds of separate things. One is if there's some question about what the easement actually allows, this is not going to help that. I do think, though, that since it allows a proceeding to have a court approve the relocation of an easement, it creates a better incentive for the parties to agree. Because now the person who wants to move the easement doesn't want to go to court because it is going to be expensive, so they're willing probably to pay a little more to the person who has the benefit of the easement in order to relocate it. But then the owner of the easement can't really do a holdup because there is this ability. So I do think it helps in reducing the litigation, but if there's a question of, say, "Can I have trucks on this driveway or just cars," this won't affect that.

I don't know why I didn't think of this right away, but if the developer wants to relocate the easement and there's some question about what the scope of the easement is, there's a great incentive for the parties to agree then to solve the disagreement or to solve what is uncertain about the easement. It's a great opportunity to do that. So I think the answer to your question is yes.

SENATOR KRASNER:

So an easement is a type of real property interest. It grants a specific right to use another's land for a defined purpose, even though the person holding the easement doesn't own the land. However, this is through contract. This is something that is written down; both parties sign, and it is recorded, and it runs with the land. So if somebody's landlocked and they have an easement over another's property for a driveway to get to their house which is in the back,

when it's sold, the easement runs with the land. Now you're suggesting in this bill that the two parties no longer have to work with each other on this. But the owner of the land can now go to court over the objection of the lienholder. Is that correct?

MR. BUCKLEY:

I think the owner of the property is not going to sue somebody to move the easement. That makes no sense at all. You would go to the holder of that driveway easement and say, "Gee, you know, I am building my house on this lot and I would like to move your driveway to the edge of the lot rather than in the middle of the lot." I don't think there would be any sense for that person to just go to court because it is expensive and they would have to pay for everything. So I think the effect of the bill will be to really encourage parties to negotiate and resolve things. The owner of the undeveloped property has a new tool in their pocket to be able to develop this property, and they can use that tool, and I think it will help the parties negotiate to come to an agreement.

SENATOR KRASNER:

I appreciate you saying, "Oh, they might not do it because it would be expensive to go to court," but they could do it, correct? Because you did say that in your opening statement.

MR. BUCKLEY:

The parties can always agree. There's always the ability of the easement holder and the property that is burdened by the easement to agree to a relocation. This would not affect that at all.

What this bill does do is that if the owner of the property to be developed wants to move it, they can go to court. I think you would find that the first thing the judge would say is, "Have you asked this party if they would move it?" But yes, it does allow a person to sue the owner of that easement and seek a relocation if it meets the eligibility requirement and if, as it is required in the statute, it meets all the conditions. Basically, it is not going to adversely affect the use of that easement.

SENATOR KRASNER:

How many other states are doing this currently?

MR. BUCKLEY:

I will give you a little background on this because they have this thing called Professor's Corner in the American Bar Association, and they talked about this Act. A lot of states already allow relocation of an easement by court decision. In fact, even Nevada allows relocation of an easement, except, as the *St. James* court held, if there was a legal description attached to it, it couldn't happen. But a lot of states don't need this Act because their court decisions already allow the moving of an easement.

Basically, it's going to be the same thing—these people should be able to move the easement if it's not going to adversely affect the use of that easement. I do know that Utah enacted it, and on my memorandum, [Exhibit J](#), that I passed around, it says that it's been enacted in Washington, Utah, Nebraska and Arkansas, and it's been introduced in Texas, Oklahoma and Virginia.

JANE STERNECKY (Uniform Law Commission):

If I could add for the record, Oklahoma also just passed the act this past session.

SENATOR KRASNER:

I was not able to count those. How many is that?

MS. STERNECKY:

Five total.

SENATOR FLORES:

I am thinking of a hypothetical: say we have lots A, B and C, and they're all adjacent to each other. Say lot C holds an easement both in lot A and lot B. Do you see scenarios where independently moving an easement in lot B doesn't necessarily create a problem for the easement holder of lot C, but once you move it, it could potentially create a problem because you also have an easement in lot A where that could be in conflict with each other? How would that play out? I am just trying to think of a hypothetical where you have two separate easements and interrupting one on its own is not an issue, but it's because of how those two easements intertwine between two separate lots. How would that play out in court? I am just trying to think of different hypotheticals that could create scenarios.

ASSEMBLYMEMBER BACKUS:

If I'm imagining a straight line and lot C is the landlocked property and you have an access easement probably through lot A and lot B, if lot B, the middle property, decided to move their easement which would greatly impact lot C, I think lot B would be a little selfish because they weren't working with lot A and lot C because lot B gets the benefit of lot A, potentially, if an easement is going through that lot.

The hard thing is, now it's not the owner of lot A that would be moving their lot, it would be basically lot B that would have to work with C, and I think it still would work in essence because you would have a situation where I think you could make a lot of good arguments if it created like something. But it seems to me that it would have to still work because lot B has to benefit from lot A, but I will go ahead and have Mr. Buckley opine on that if there was the multiple property situation.

MR. BUCKLEY:

I have two points. First, in section 24, subsection 2, paragraph (a), subparagraph (4), one of the persons that has to be a party to the litigation would be anybody who has the benefit of that easement. So all of lot A and lot B would have to be affected.

The other thing is that basically the court is going to have to find that it's not going to impair the use of that easement. It's not limited to moving it on lot B but moving it on lot A. Even if they weren't a party, the court's going to have to find that nobody's going to suffer because of the relocation.

As Assemblymember Backus pointed out, these things are well thought out. They spend years in putting them together, and I think if you go through it as I have many times, it's all there. It can't make the easement more burdensome than it is.

SENATOR FLORES:

I appreciate that. I was just mostly trying to walk myself through the exercise of when we have different easements in different properties, but if it's just one property that is bringing the suit, how that relationship and action would kind of play out, and I appreciate the expertise. How would it play out today? If you have that scenario where you have three lots, and one lot is trying to make a

change, how would that play out in court today? Would they force all three lot owners into the room?

MR. BUCKLEY:

Absolutely. I mean, the beneficiaries of the easement and the property that is burdened by the easement, they have an interest in real estate, and a court cannot affect that interest unless those people are parties to the lawsuit.

SENATOR ELLISON:

If you had A and B up there, but yet you had a piece of property in back that had no access or limited access, then that property is almost worthless if they have no access to it. So if the back is closed off and there's an easement that goes between the two to go up to that house way up on the top, then that would seem to me to be a reason to go in, and the judge would say, "Yes, I can understand," because now they have no access to their property. Is that not correct?

MR. BUCKLEY:

I'm not sure of the question because if there is an easement for that house up on the hill that might be landlocked, then they would have to be a party. If there is no easement, then there's nothing, and they need to get an easement.

What this bill does is it talks about relocating an existing easement. So, if the property were landlocked, under Nevada law, there's a great likelihood that they would be able to get an easement by necessity, depending upon how the parcels were created. But that is a common-law doctrine and wouldn't be addressed by this bill.

SENATOR ELLISON:

I did see an impact, and I've seen several of these where they do a subdivision, but the subdivision didn't take the property up above them. So that created a problem, and that created a lawsuit because now you got a piece of property that might be very valuable, but you have no access. So I see where that would fall into this if that was the case. But then the buyer should have known that he needed access first before he purchased the property.

MR. BUCKLEY:

That certainly makes sense. Again, what you're talking about is an easement by necessity. The courts are allowed to imply an easement under certain

circumstances—for example, there was a road there, and then a new subdivision came in and cut off that road. There's a good chance that easement still is there because it was being used in the past, or it might even be a prescriptive easement because it's been used for so long.

CHAIR SCHEIBLE:

You answered for me what the current law is with regard to whether there were three properties that share easements, but can you clarify what the process is if I am a landowner and someone else's driveway goes through the side of my property and I want to move that driveway, and the person who uses that driveway says "No." Could I take them to court to force them to allow me to move the driveway, or would the only remedy be for me to move the driveway and wait for them to sue me?

MR. BUCKLEY:

I will just go back to the *St. James* case. Under the existing law, this is what was adopted by the Nevada Supreme Court. They adopted the restatement 4.8 of property [section 4.8 of the Restatement (Third) of Property]. It basically says, except where the location and dimensions are determined by the instrument or circumstances surrounding the creation of a servitude, they are determined as follows: the owner of the servient estate has the right within a reasonable time to specify a location.

I need to look at subsection (3):

Unless expressly denied by the terms of an easement, as defined in section 1.2, the owner of the servient estate is entitled to make reasonable changes in the location or dimensions of an easement, at the servient owner's expense, to permit normal use or development of the servient estate, but only if the changes do not (a) significantly lessen the utility of the easement, (b) increase the burdens on the owner of the easement in its use and enjoyment, or (c) frustrate the purpose for which the easement was created.

So what happened in the *St. James* case? The court took a very liberal position on being able to relocate the easement. But it did say that in this particular case, where the easement was legally described, that they couldn't do it. So in your example, if the easement said property owner A said, "Yes, you can use

my property to access your property," and that was all it said, then the owner could move it.

Under the *St. James* reasoning, you get to use the 30 feet on the north side of my property; then I don't think that under the *St. James* case you could relocate it. You couldn't move it. I think that's the result of *St. James*.

In *St. James*, they wanted to put a few bends in the road, and the court said no. That was a 1,600-acre development, and the beneficiaries were a couple of lots, so there was great pressure on the on the courts to find some help for the developer. The court said no. So under your example, if the person said, no, you are stuck.

ASSEMBLYMEMBER BACKUS:

If I may add on, I think the question you were asking was who can commence the litigation. I think it could be either way. I am actually reading Mr. Buckley's memo where he nicely summarizes *St. James*, so I am kind of cheating a little based on his work product. In that situation, the developer wanted to do this relocation of an easement that just had curves in it, so they moved forward and were relying on the Restatement. As most of the lawyers on this committee probably know, Restatement of all law is secondary authority and not necessarily binding law. In Nevada, we're all a little loosey-goosey where we may decide to just move an easement on our own—we won't ask for permission, we will just seek forgiveness—so we end up getting sued.

I want to take a step back with the Uniform Easement Relocation Act. Right now, we are just operating under a Supreme Court opinion that basically adopted the Restatement and then separated itself from what the Restatement said. Basically, it ruled the developer's easement did not satisfy the Restatement conditions for relocation. However, the court cited that the benefit of the Restatement is to increase the value of property burden by an easement without diminishing the value of the property benefiting from the easement.

Right now, we are dealing with caselaw which is clear, but it could be interpreted very differently by our courts. The good thing with something like the Uniform Easement Relocation Act is that it's going to give property owners some guidance so maybe we could avoid litigation if there is a pathway to give us some clear direction under statutory law.

CHAIR SCHEIBLE:

My second question is about the owner of the easement and under the Uniform Law, whether they have any ability to request the movement of an easement if the servient property owner makes changes to their property and doesn't move the easement in a way that would be reasonable or predictable. Going back to an earlier example where you were saying if someone has a driveway going through the center of the lot and then the lot owner decides to build their house in the center, I could see a situation where the owner of the easement says, "Look, I just want my driveway on the side of your house; I no longer want my easement through the center of the lot because I don't want to have to drive three feet past your house. I just want it on the side. If you're going to build your house in the middle of your lot that has been empty for the last 20 years, can you at least move my driveway over so that I have a straight shot to my house?"

Would they have the ability to exercise the same process as the owner of the subservient estate?

ASSEMBLYMEMBER BACKUS:

I stand corrected from probably Ms. Sternecky or Mr. Buckley, but when I'm looking at sections 23 and 24, it's talking about the servient estate owner and not the other owner in your situation.

MS. STERNECKY:

Senator, I would be happy to answer this question. No, it does not work the other way. This Act only allows the owner of the servient estate to relocate the easement, and that is because it is trying to address a couple of concerns. First of all, the concern about extortion where the dominant estate holder has this extreme amount of power over the subservient estate owner where they're able to say, "You can't relocate this easement, you can't develop your property."

The second thing we are trying to prevent is land waste due to gridlock. In a scenario where the two parties cannot agree, sometimes this property just lays in waste because there isn't a clear mechanism to file suit to allow the relocation. Neither of those are really present when we have a dominant estate holder who would like to just move the easement on the burdened property. The power imbalance is really that the burdened property is at a disadvantage relative to the dominant estate holder.

CHAIR SCHEIBLE:

Thank you. My last question is about the Uniform Mortgage Modification Act, and I want to make sure I am understanding correctly. This has only been signed into law in Utah so far. How long have they been utilizing it? When did that happen?

ASSEMBLYMEMBER BACKUS:

That's correct. This has only been signed into law in Utah, but that is because it was just promulgated at the end of last summer in 2024, so this is still a brand-new Uniform Act. As far as I know, it has not taken effect yet, but I will note that we had significant buy-in from throughout the financial and mortgage lending industries. This is all based in common law. In the Uniform Mortgage Modification Act, the safe harbor modifications identified by that Act are based in common law. We're just adding certainty to both lenders and borrowers to make sure that they're able to make those mutually beneficial modifications when it's something that is going to be in their best interest.

CHAIR SCHEIBLE:

We will move now into testimony in support, opposition or neutral of A.B. 192. Seeing none, I will open for public comment.

BRANDON BUCHHOLZ:

As a student, I have been tracking A.B. 245, but I did not receive any information on the previous sessions. Would you allow me to give my testimony now?

CHAIR SCHEIBLE:

I'm sorry, on A.B. 245?

MR. BUCHHOLZ:

Yes, the one on semiautomatic shotguns and centerfire rifles.

CHAIR SCHEIBLE:

I am sorry, we do not take testimony during public comment or during work sessions, but if you would like to submit it to us in writing, we would be happy to include it in our official record.

MR. BUCHHOLZ:

Okay, thank you. I will hand in my letter of opposition ([Exhibit K](#)).

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CHAIR SCHEIBLE:

Seeing no one else wishing to give public comment, we are adjourned at
2:12 p.m.

RESPECTFULLY SUBMITTED:

Linda Hiller,
Committee Secretary

APPROVED BY:

Senator Melanie Scheible, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Introduced on Minute Report Page No.	Witness / Entity	Description
	A	1		Agenda
	B	1		Attendance Roster
A.B. 25	C	2	Jered McDonald	Work Session Document
A.B. 137	D	3	Jered McDonald	Work Session Document
A.B. 194	E	3	Jered McDonald	Work Session Document
A.B. 209	F	4	Jered McDonald	Work Session Document
A.B. 239	G	5	Jered McDonald	Work Session Document
A.B. 245	H	6	Jered McDonald	Work Session Document
A.B. 321	I	7	Jered McDonald	Work Session Document
A.B. 192	J	9	Michael Buckley / State Bar of Nevada	Memorandum
A.B. 245	K	24	Brandon Buchholz	Letter of Opposition