

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

**Seventy-Ninth Session
April 14, 2017**

The Committee on Judiciary was called to order by Chairman Steve Yeager at 9:15 a.m. on Friday, April 14, 2017, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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/79th2017.

COMMITTEE MEMBERS PRESENT:

Assemblyman Steve Yeager, Chairman
Assemblyman James Ohrenschall, Vice Chairman
Assemblyman Elliot T. Anderson
Assemblywoman Lesley E. Cohen
Assemblyman Ozzie Fumo
Assemblyman Ira Hansen
Assemblywoman Sandra Jauregui
Assemblywoman Lisa Krasner
Assemblywoman Brittney Miller
Assemblyman Keith Pickard
Assemblyman Tyrone Thompson
Assemblywoman Jill Tolles
Assemblyman Justin Watkins
Assemblyman Jim Wheeler

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None



STAFF MEMBERS PRESENT:

Diane C. Thornton, Committee Policy Analyst
Brad Wilkinson, Committee Counsel
Janet Jones, Committee Secretary
Melissa Loomis, Committee Assistant

OTHERS PRESENT:

Tonja Brown, Private Citizen, Carson City, Nevada

Chairman Yeager:

[Roll was called. Committee protocol and rules were explained.] I want to remind the Committee members that there is no need to reserve your right to change your vote on the floor. Under our rules, you will always have that right; just make sure that you let the Chairman know if you are going to change your vote between now and the floor session. There are 32 bills in the work session, so members please keep statements to a minimum, and make sure you have pertinent questions. Generally, we will not be taking testimony from members of the public unless there are specific questions for a proponent of an amendment.

I want to publicly thank the staff; they have been working very hard, particularly Diane Thornton, Committee Policy Analyst, and Brad Wilkinson, Committee Counsel, who were here late into the morning hours. If you like what you see here today, it is a reflection of the staff and how hard they have been working. Please be sure to thank them when you see them because it has really been a team effort. We will now move on to the work session.

[Assembly Bill 125](#): Revises provisions relating to court interpreters. (BDR 1-297)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 125 was sponsored by Assemblywoman Diaz and heard in Committee on March 23, 2017 ([Exhibit C](#)).

Assembly Bill 125 changes provisions related to court interpreters. The measure clarifies that a court interpreter is required to obtain a professional certificate. Provisions relating to the appointment of alternate court interpreters are removed and the term "person with a language barrier" is replaced with "person with limited English proficiency." Lastly, the bill provides that an interpreter must be provided at public expense if the person with limited English proficiency is a defendant, party, or witness in a civil or criminal proceeding.

There are two amendments to this bill. Assemblyman Yeager, in consultation with Assemblywoman Diaz, proposed deleting the requirement to appoint an interpreter in civil proceedings.

Assemblywoman Diaz proposed an amendment; the mock-up begins on page 2 of [\(Exhibit C\)](#). The amendment does the following:

1. It deletes "in consultation with" and instead provides "with the advice of" the committee established pursuant to *Nevada Revised Statutes* (NRS) 1.530.
2. It amends the bill as a whole to delete the word "professional."
3. It clarifies and provides throughout the bill that a court interpreter may be certified "or registered."
4. It requires the committee established pursuant to NRS 1.530 to adopt guidelines and procedures that specify the procedures a court or juvenile court must follow when a certified or registered interpreter is not available.
5. It requires the court or juvenile court to follow the procedures adopted by the committee established pursuant to NRS 1.530 if a certified or registered interpreter is not available.
6. It deletes the word "translate" and instead replaces it with the word "interpret" in section 8 of the bill.

Chairman Yeager:

I am looking for a motion to amend and do pass with the two amendments on A.B. 125.

ASSEMBLYWOMAN JAUREGUI MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 125.

ASSEMBLYMAN FUMO SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN WHEELER VOTED NO.)

The floor statement is assigned to Assemblywoman Diaz.

Assembly Bill 135: Revises provisions relating to prohibited acts concerning the use of marijuana and the operation of a vehicle or vessel. (BDR 43-598)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 135 was sponsored by the Assembly Committee on Judiciary and heard in Committee on March 3, 2017 ([Exhibit D](#)).

Assembly Bill 135 removes the use of a person's urine to test for specified amounts of marijuana and marijuana metabolite when a person is suspected of driving or being in actual physical control of a vehicle on a highway or public premises. The measure provides that the amount of marijuana and marijuana metabolite in a person's system must be measured

through a blood test. The bill makes the same changes to similar provisions of existing law relating to a person driving or being in actual physical control of a commercial motor vehicle on a highway or on premises to which the public has access or operating or being in actual physical control of a vessel under power or sail on the waters of this state.

Assemblyman Yeager proposed an amendment deleting the saliva test in section 4 of the bill. The mock-up of the bill is on pages 2 and 3 of ([Exhibit D](#)). There was also a special note added to the work session document stating that current Nevada law, as provided in NRS 484C.110, specifies certain levels of presumptive impairment for both marijuana and marijuana metabolites in both urine and blood. Urine testing for marijuana and marijuana metabolite is inappropriate because this inert metabolite has no effect on cognition.

Chairman Yeager:

I am looking for a motion to amend and do pass [Assembly Bill 135](#).

ASSEMBLYMAN WATKINS MOVED TO AMEND AND DO PASS
[ASSEMBLY BILL 135](#).

ASSEMBLYMAN FUMO SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblyman Hansen:

I will be voting no on this bill, as I am uncomfortable with anything legalizing or having to do with marijuana until it is federally approved. I do not see how this Committee can constantly bring our statutes up to federal standards, but when it comes to marijuana, we are still pretending it does not exist on the federal level. That is why I will be voting no.

Chairman Yeager:

The motion is to amend and do pass [A.B. 135](#), and seeing no further discussion, I will take a vote.

THE MOTION PASSED. (ASSEMBLYMEN HANSEN, KRASNER, AND
WHEELER VOTED NO.)

I will take the floor statement.

**[Assembly Bill 136](#): Revises provisions governing bail in certain criminal cases.
(BDR 14-708)**

Diane C. Thornton, Committee Policy Analyst:

[Assembly Bill 136](#) was sponsored by Assemblywoman Neal and heard in Committee on March 17, 2017 ([Exhibit E](#)).

Assembly Bill 136 provides that a defendant who can be admitted to bail without appearing before a magistrate must be admitted on an unsecured bond if the defendant: (1) was arrested for a misdemeanor which does not involve an act of violence; (2) was not arrested while on bail; and (3) does not have a record of failing to appear after release on bail or without bail.

This bill defines an "unsecured bond" as a bond which does not require advance payment and is a monetary sum that the defendant agrees to pay at a later time if the defendant, without good cause, fails to appear when the defendant's presence in court is lawfully required.

Assemblyman Yeager has proposed an amendment and it is on pages 2 and 3 of ([Exhibit E](#)). It deletes the entire bill and then adds to *Nevada Revised Statutes* (NRS) 178.4853—factors considered before release without bail—that the court can consider an evidence-based risk assessment tool, if available. It also amends NRS 178.4853, subsection 10.

Chairman Yeager:

At this time I would take a motion to amend and do pass A.B. 136.

ASSEMBLYMAN OHRENSCHALL MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 136.

ASSEMBLYMAN FUMO SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN KRASNER AND WHEELER
VOTED NO.)

The floor statement is assigned to Assemblyman Fumo.

Assembly Bill 119: Revises provisions governing garnishment as it relates to spousal and child support. (BDR 3-732)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 119 was sponsored by Assemblyman Marchant and heard in Committee on March 21, 2017 ([Exhibit F](#)).

Assembly Bill 119 gives priority to writs of garnishment to satisfy judgments for the collection of spousal support over other claims when a garnishee is the subject of multiple writs of garnishment.

There are two amendments to this bill. I will note that the first amendment should read "to judgments," not "writs of garnishment." It should say, "Assemblyman Yeager proposed an amendment that the amendatory provisions apply to judgments issued on or after July 1, 2017." The second amendment by Assemblyman Marchant in discussion with

Jeffrey J. Witthun, Director of the Clark County District Attorney's Family Support Division, proposed an amendment to the bill to include the child support exemption contained in subsection 1 of *Nevada Revised Statutes* (NRS) 31A.160, in addition to the exemption contained within subsection 2 already included in the bill.

Chairman Yeager:

I will take a motion to amend and do pass with both amendments for A.B. 119.

ASSEMBLYMAN PICKARD MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 119.

ASSEMBLYMAN ELLIOT T. ANDERSON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN MILLER AND WATKINS
VOTED NO.)

The floor statement is assigned to Assemblyman Hansen.

**Assembly Bill 123: Revises provisions governing limited-liability companies.
(BDR 7-531)**

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 123 was sponsored by Assemblyman Ellison and heard in Committee on March 16, 2017 ([Exhibit G](#)).

Assembly Bill 123 clarifies that a series may purchase, own, and convey property in the name of the series, as the asset of the series. The bill authorizes the articles of organization or operating agreement of a limited-liability company to include a provision authorizing property to be owned, purchased, and conveyed in the name of the series. This bill expands the powers of a series to authorize a series to sue and be sued in its own name; make contracts in its own name; and purchase, own, and convey property. The measure specifies the persons who are authorized to bind a series to an instrument or record providing for the acquisition, mortgage, or disposition of property by the series.

There is one amendment [pages 2-7, ([Exhibit H](#))] for this bill, which was proposed by Richard G. Barrows, Wilson Barrows Salyer Jones, and Erven Nelson. This amendment does the following:

1. It deletes the word "create" and adds the language to "authorize the creation of" pertaining to the creation of series within a limited-liability company.
2. Allows a series to be created, without the filing of articles of organization for the series with the Secretary of State by the adoption of a written operating agreement for the series by its members.

3. It specifies the powers of the series limited-liability company including the ability to sue and be sued, purchase, take, receive, lease, or otherwise acquire, own, hold, improve, use and otherwise deal in and with real and personal property, or an interest in it, and sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all or any part of its property and assets.
4. It allows real and personal property to be purchased, owned, and conveyed by a series separately in the name of the series, as the asset of the series only.

Chairman Yeager:

At this time I would be looking for a motion to amend and do pass A.B. 123.

ASSEMBLYMAN WHEELER MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 123.

ASSEMBLYWOMAN JAUREGUI SECONDED THE MOTION.

Before we vote on this measure, I wanted to thank the sponsors for working on some of the concerns that were addressed in the hearing. I think the amendment is substantially better than what was initially brought to us. I will now take the vote.

THE MOTION PASSED UNANIMOUSLY.

The floor statement is assigned to Assemblyman Ellison.

Assembly Bill 314: Revises various provisions relating to estates. (BDR 2-738)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 314 was sponsored by the Assembly Committee on Judiciary and heard in Committee on March 27, 2017 ([Exhibit H](#)).

Assembly Bill 314 revises various provisions relating to administration of trusts and estates. This bill clarifies the laws relating to estate planning, trust administration, probate, and property transfers.

There are three amendments for this measure. The first amendment is proposed by Julia S. Gold and Alan D. Freer, Legislative Committee of the Probate and Trust Section of the State Bar of Nevada. They proposed an amendment to section 3, wherein the Probate and Trust section has requested clarification language concerning the procedural operation of the non-probate transferee liability statutes and addresses the Judiciary Committee's request for an amendment to section 39, defining "valid purpose."

Second, Assemblyman Yeager proposed the following amendment: To amend section 1 of the bill so that the amount of the exemption in *Nevada Revised Statutes* (NRS) 21.090, subsection 1, paragraph (z) is increased from \$1,000 to \$10,000.

The third amendment is from Kim Surratt, the representative from the Nevada State Bar Family Law Section, who proposed an amendment to address the concerns expressed by Assemblywoman Cohen and Assemblyman Pickard concerning section 4 with respect to the "community property" language.

Chairman Yeager:

We have a conceptual amendment from Assemblyman Elliot T. Anderson. Assemblyman Anderson, would you like to explain that to the Committee?

Assemblyman Elliot T. Anderson:

I discussed this with Mr. Neal Tomlinson with regard to a conceptual amendment regarding the noncharitable trust section. My issue is that we are slightly changing the rule against perpetuities and the whole gravamen of that issue is assuring that we have good evidence as to the settlor's intent so that we can ensure that the beneficiary is clear. The conceptual amendment I would like to offer is a requirement that the noncharitable trust state with sufficient detail the noncharitable purpose to enable the finder of facts to be able to make a good determination of what that purpose is since oftentimes we will not have that evidence available after the person dies. It would adequately ensure that we have good evidence, which is the whole purpose of the rule. Mr. Tomlinson could you give us a thumbs up?

Chairman Yeager:

I do see a thumbs up from Mr. Tomlinson, so that amendment is viewed as friendly. At this point I will take a motion to amend and do pass A.B. 314, with three amendments listed on the work session document as well as Assemblyman Anderson's conceptual amendment.

ASSEMBLYMAN WHEELER MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 314.

ASSEMBLYMAN ELLIOT T. ANDERSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

The floor statement is assigned to Assemblyman Anderson.

Assembly Bill 207: Revises provisions governing juries. (BDR 1-648)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 207 was sponsored by Assemblyman Fumo and heard in Committee on March 3, 2017 ([Exhibit I](#)).

Assembly Bill 207 revises the process for selecting trial jurors by requiring the jury commissioner to compile and maintain a list of qualified electors from information provided. The measure requires the jury commissioner to keep a record of the race of each trial juror selected and report this information twice a year to the Office of the Attorney General. The Employment Security Division of the Department of Employment, Training and

Rehabilitation (DETR) is required to provide a list of persons who receive benefits in any county upon the request of any district judge or jury commissioner of the judicial district in which the county lies for use in the selection of jurors. The court or jury commissioner who requests the list of such persons shall reimburse DETR for the reasonable cost of compiling the list.

Assemblyman Fumo has proposed an amendment; the mock-up is attached on the following pages of ([Exhibit I](#)).

1. Section 4 is deleted and replaced with a new subsection 10 that requires the Administrator, upon the request of a district judge or jury commissioner, to furnish a list of persons who receive benefits for use in the selection of jurors. The cost of providing the list must be reimbursed. The mock-up also incorporates changes proposed by Andres Moses, from the Eighth Judicial District Court, to clarify the jury commissioner's responsibility of recordkeeping and reporting.
2. Assemblyman Fumo proposed adding sponsors to the bill.

Assemblyman Fumo, in discussion with DETR, proposed the following amendment:

1. To add new language pertaining to the unauthorized use or dissemination of certain information.
2. Add new language requiring the Administrator of the Employment Security Division of DETR to provide a list of persons who receive unemployment insurance benefits for use in the selection of jurors. The Division is to be reimbursed for the cost of compiling the list.

Chairman Yeager:

At this time I will take a motion to amend and do pass A.B. 207 with all amendments listed in the document.

ASSEMBLYWOMAN JAUREGUI MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 207.

ASSEMBLYWOMAN TOLLES SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

The floor statement is assigned to Assemblyman Fumo.

Assembly Bill 411: Revises provisions governing employment with a department of juvenile justice services. (BDR 5-1029)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 411 was sponsored by the Assembly Committee on Judiciary and heard in Committee on April 5 and April 13, 2017 ([Exhibit J](#)).

Assembly Bill 411 amends existing law by authorizing, rather than requiring, a department of juvenile justice services to terminate the employment of an employee based upon a showing of just cause, rather than for cause, if the employee has been convicted of certain crimes or certain criminal charges are pending.

Alex Ortiz, representing Clark County, proposed an amendment [pages 2-5, ([Exhibit J](#))]. The amendment proposes to revise sections 1 and 2 of the bill with a different approach to authorizing, rather than requiring, a department of juvenile justice services to terminate the employment of an employee; provide that applicants may be denied employment when charges are pending against them, and employees must be allowed time to correct information or resolve the pending charges; and it eliminates section 3 of the bill. I will note that the amendment is from April 11, 2017.

Chairman Yeager:

Committee, you may recall that we nearly considered this bill yesterday but there was a mix-up with the mock-up that was behind the tab. We do have the correct one now. That being said, I will take a motion to amend and do pass A.B. 411.

ASSEMBLYMAN WATKINS MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 411.

ASSEMBLYMAN PICKARD SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

The floor statement is assigned to Assemblyman Watkins.

Assembly Bill 412: Revises provisions relating to the jurisdiction of courts over certain criminal charges. (BDR 14-601)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 412 was sponsored by the Assembly Committee on Judiciary and heard in Committee on April 5, 2017 ([Exhibit K](#)).

Assembly Bill 412 requires certain misdemeanors that would ordinarily be within the jurisdiction of a municipal court be joined with related felonies or gross misdemeanors in district court. A misdemeanor charge, which is erroneously included in a complaint filed in municipal court, shall be deemed void ab initio and stricken.

Assemblyman Yeager proposed an amendment; the mock-up is on pages 2 and 3 of ([Exhibit K](#)). A misdemeanor which was committed within the boundaries of the city and which would otherwise be within the municipal court jurisdiction must be charged in the same criminal complaint as a felony or gross misdemeanor if the misdemeanor is based on the same act or transaction as a felony, gross misdemeanor, or both if the misdemeanor is based on the same common scheme. The provisions of the bill do not apply to charges based on a violation of municipal ordinance and if the indictment is brought or information is filed in the district court after the convening of a grand jury. Language is deleted in section 1, subsection 2, paragraph (b) so that misdemeanors committed in a separate act but as part of a common scheme would remain in municipal court.

Chairman Yeager:

At this time I will take a motion to amend and do pass [A.B. 412](#).

ASSEMBLYMAN ELLIOT T. ANDERSON MOVED TO AMEND AND DO PASS [ASSEMBLY BILL 412](#).

ASSEMBLYMAN PICKARD SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

I will take the floor statement.

[Assembly Bill 413](#): Makes various changes relating to electronic documents and electronic signatures. (BDR 12-597)

Diane C. Thornton, Committee Policy Analyst:

[Assembly Bill 413](#) was sponsored by the Assembly Committee on Judiciary and heard in Committee on April 7, 2017 ([Exhibit L](#)).

[Assembly Bill 413](#) establishes provisions relating to electronic wills and trusts. The electronic will designates a qualified custodian to maintain custody of the electronic record of the electronic will. The bill sets forth the duties of the qualified custodian. The provisions governing electronic notaries public are established. Electronic notaries public are authorized to perform electronic notarial acts remotely using audio-video communication. The bill increases the amount of fees which an electronic notary public may charge for performing certain electronic notarial acts and authorizes an electronic notary public to charge a reasonable fee to recover any cost of providing a copy of an entry or a recording of an audio-video communication in the electronic journal maintained by the electronic notary public.

Kim Surratt of Surratt Family Law and Joshua Hicks of McDonald Carano submitted an amendment [pages 2-35, ([Exhibit L](#))]. The amendment does the following:

1. It clarifies when an electronic will is self-proving.
2. Provides for the duties of a qualified custodian of an electronic will.
3. Provides when a qualified custodian may stop serving in that capacity.
4. Requires that anyone who creates a certified paper original must sign an affidavit that satisfies certain requirements.
5. Considers a person to be in the presence of or appearing before another person if such persons are able to communicate with each other by means of audio and video communication.
6. It amends the language in the bill prohibiting government employees acting in their official capacity from providing remote notarization; thereby it removes the two-thirds designation.

Chairman Yeager:

At this time I will take a motion to amend and do pass A.B. 413 with the listed amendments.

ASSEMBLYMAN WATKINS MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 413.

ASSEMBLYWOMAN TOLLES SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN KRASNER AND WHEELER
VOTED NO.)

The floor statement is assigned to Assemblywoman Cohen.

Assembly Bill 414: Requires the electronic recording of interrogations under certain circumstances. (BDR 14-600)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 414 was sponsored by the Assembly Committee on Judiciary and was heard in Committee on April 12, 2017 ([Exhibit M](#)).

Assembly Bill 414 requires law enforcement, with certain exceptions, to make an electronic recording of a custodial interrogation of a person suspected of committing homicide or sexual assault. Recordings are not required if the person being interrogated requests that there be no recording, the equipment fails, the questions are part of routine processing, the officer does not have knowledge of facts relating to a homicide or sexual assault, documented exigent circumstances related to public safety preclude a recording, or the interrogation is outside of Nevada. Evidence from an interrogation may be admitted by a court even in the absence of an electronic recording of the interrogation, and sets forth the

conditions under which a jury must be given a cautionary instruction. Finally, law enforcement agencies must adopt policies and procedures for recording of custodial interrogations.

Assemblyman Yeager proposed an amendment and it is on page 2 of ([Exhibit M](#)). It proposes to insert the following in subsection 3, on page 2, as a circumstance when recording is not required: "Multiple interrogations are taking place, exceeding the available electronic recording capacity." It adds a new section to the bill that says: "Lack of an electronic recording shall not be the sole basis for suppression of the interrogation or confession." It also deletes the existing definition of "place of detention" and replaces it with the following definition: "a fixed location under the control of a Nevada law enforcement agency where individuals are questioned about alleged crimes."

Chairman Yeager:

I will take a motion to amend and do pass A.B. 414.

ASSEMBLYWOMAN COHEN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 414.

ASSEMBLYWOMAN JAUREGUI SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblywoman Krasner:

In my notes I have law enforcement, district attorneys, the Nevada Sheriffs' and Chiefs' Association, and the Office of the Attorney General opposing this. I wonder if the interested parties have met with the sponsor and have come to an amicable amendment to this bill?

Chairman Yeager:

Maybe we could have a show of hands. Your options are thumbs up, thumbs down, or thumbs sideways. Law enforcement—everyone is still a thumbs down. I will tell you that I did meet with people to try and come to a consensus, but we simply could not get there on this bill. The amendments alleviate some of the concerns expressed at the hearing, particularly about whether you have to record in the back of a police car. The new definition of a "place of detention" makes it clear that it has to be a fixed location, and the back of a patrol car is not a fixed location. We stand pretty much where we were during the hearing yesterday. I will now take the vote.

THE MOTION PASSED. (ASSEMBLYMEN HANSEN, KRASNER,
TOLLES, AND WHEELER VOTED NO.)

The floor statement is assigned to Assemblyman Fumo.

**Assembly Bill 260: Revises provisions relating to the crime of prostitution.
(BDR 18-821)**

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 260 was sponsored by Assemblymen Tolles, Oscarson, et al.; and Senators Gansert, Cannizzaro, Harris, and Hardy. The bill was heard in Committee on March 22, 2017 ([Exhibit N](#)).

Assembly Bill 260: (1) requires the Attorney General to appoint a committee on Prostitution and Human Trafficking; (2) sets forth the membership for the committee; (3) requires the committee to adopt regulations for the evaluation, certification, and monitoring of programs for treatment for persons who are convicted of a first-time offense of solicitation for prostitution; (4) requires certain information to be included in such programs for treatment; and (5) prescribes other duties of the committee. A justice of the peace or municipal judge is authorized to suspend the sentence of a person who is convicted of a misdemeanor that constitutes solicitation for prostitution on the condition that the person actively participates in a program for the treatment of persons who solicit prostitution and complies with any other conditions ordered by the justice of the peace or municipal judge.

The bill increases the penalty for engaging in solicitation for prostitution if a person offers to pay another person a fee, monetary consideration, or other thing of value with the intent to engage in sexual conduct. A person who is found guilty of such an offense for a (1) first offense, is guilty of a misdemeanor and a mandatory fine of not less than \$400; (2) second offense, is guilty of a gross misdemeanor and a mandatory fine of not less than \$800; and (3) third and subsequent offense, is guilty of a gross misdemeanor and a mandatory fine of not less than \$1,300. Lastly, the court is required to impose a civil penalty on a person who is found guilty of such an offense, and provides that the civil penalties collected be used only for: (1) enforcing certain crimes relating to solicitation for prostitution; and (2) programs of treatment for persons who solicit prostitution.

Assemblywoman Tolles has proposed an amendment to the bill; the mock-up is on pages 3-8 of ([Exhibit N](#)). The amendment does the following:

1. It deletes section 1 of the bill.
2. Allows the justice of the peace or a municipal judge to suspend a sentence for up to 2 years if the person convicted of soliciting prostitution participates in a prostitution offender program and complies with any other conditions of suspension.
3. Requires the program for treatment is to be certified by the Division of Public and Behavioral Health of the Department of Health and Human Services.
4. Prohibits the person's sentence from being suspended if he or she has previously participated in a treatment program.

5. Sets forth conditions if the person is unable to pay the civil penalty.
6. Provides that at least 50 percent of the civil penalty collected must be used for enforcement.
7. Provides for the discharge of the person and dismissal of the proceedings against the person upon filing the terms and conditions of the program. The discharge and dismissal may only occur once. The discharge and dismissal is without adjudication of guilt and is not a conviction for the purposes of employment, civil rights, or other certain purposes. However, it is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail.
8. Allows the court, without a hearing, to order the records sealed.
9. Allows professional licensing boards to inspect and copy from the sealed records.
10. It also deletes section 5 of the bill.

In addition, Assemblywoman Tolles proposed to add co-sponsors to the bill.

Chairman Yeager:

At this time I will take a motion to amend and do pass A.B. 260 with the amendments.

ASSEMBLYMAN ELLIOT T. ANDERSON MOVED TO AMEND AND
DO PASS ASSEMBLY BILL 260.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblywoman Tolles:

I am very proud of the Committee's input on this bill. I feel like it has become our bill. A lot of input went into the final product, and I want to thank everyone in this Committee.

Chairman Yeager:

I will now take the vote.

THE MOTION PASSED UNANIMOUSLY.

The floor statement is assigned to Assemblywoman Tolles.

Assembly Bill 376: Revises provisions relating to criminal procedure. (BDR 14-1075)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 376 was sponsored by Assemblyman Ohrenschall and heard in Committee on April 3, 2017 ([Exhibit O](#)).

Assembly Bill 376 revises provisions governing criminal procedure and discovery in criminal cases. The bill requires the complaint when a person is arrested without a warrant to be filed within 48 hours after the person is brought before the magistrate. The prosecuting attorney is deemed to be in constructive possession of all materials that are created, generated, or collected by any and all law enforcement agencies, and must meet with the defendant's attorney and the law enforcement officer who is in charge of the investigation and exchange all discoverable materials no later than 30 days before trial. To ensure compliance, the prosecuting attorney and the defendant's attorney must sign and file an affidavit with the court.

At the request of a defendant, the prosecuting attorney must allow the defendant to inspect and to copy or photograph any material which tends to exculpate the defendant, mitigate the culpability of the defendant, adversely impact the credibility of the state's prospective witnesses or evidence, or mitigate the potential punishment of the defendant. The prosecuting attorney has an obligation to seek out and disclose all material whether or not the defendant has made a request. Upon a written motion of the defendant for the discovery and inspection, the court is required to schedule a hearing on the motion, rule on each request, and enter an order on each request. The court is authorized to order upon a sufficient showing that the material subject to discovery or inspection is privileged and requires the court to include a statement explaining the determination that the material is privileged. A party may request a subsequent disclosure of information if the party learns additional material may exist, which was not known when the party made his or her initial request. The bill requires the court to prohibit a party that fails to comply with discovery requirements from introducing into evidence in certain circumstances.

The bill revises the issuance of subpoenas by a prosecuting attorney or an attorney for a defendant by allowing subpoenas to be issued for witnesses to appear for any hearing or proceeding. The provisions authorizing the court to direct the production and inspection of certain materials and objects designated in a subpoena are repealed. Lastly, the court is required to give the jury any written charge submitted by a party if the court thinks it is pertinent and an accurate statement of law, whether or not the charge has been issued or adopted by the Nevada Supreme Court or the State Bar of Nevada.

Assemblyman Yeager proposed an amendment and the mock-up is on pages 3-7 of ([Exhibit O](#)). The amendment deletes sections 2 through 12 of the bill. It requires that after an arrest, a complaint must be filed within 72 hours, and allows 48-hour extensions for good cause shown.

Chairman Yeager:

At this time I will take a motion to amend and do pass A.B. 376.

ASSEMBLYMAN WATKINS MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 376.

ASSEMBLYMAN ELLIOT T. ANDERSON SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblyman Ohrenschall:

I wanted to thank you for working so hard to fix my bill. I think this is a good public policy, and I hope the members consider supporting it.

Assemblywoman Krasner:

In my notes, I show Assembly Bill 356 and Assembly Bill 376, when taken together, that there was opposition by some law enforcement agencies in regard to *Brady v. Maryland* [373 U.S. 83, 87 (1963)]. I am wondering if the amendment is amicable to all the parties including the sponsors.

Chairman Yeager:

I believe so, but if I could have a thumbs up from anyone in the crowd. I see thumbs up from John T. Jones Jr., Chief Deputy District Attorney, Clark County District Attorney's Office, and Jennifer Noble, Deputy District Attorney, Washoe County District Attorney's Office. I do believe this is a consensus to the amendment as drafted. [A letter from the Clark County District Attorney's Office was submitted ([Exhibit P](#)).]

I will now take the vote.

THE MOTION PASSED. (ASSEMBLYMAN HANSEN VOTED NO.)

The floor statement is assigned to Assemblyman Ohrenschall.

[Assembly Bill 356](#): Revises provisions relating to criminal procedure. (BDR 14-1155)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 356 was sponsored by Assemblywoman Neal and heard in Committee on April 3, 2017 ([Exhibit Q](#)).

Assembly Bill 356 revises provisions governing discovery in criminal cases. The bill requires the prosecuting attorney, defendant's attorney, and lead investigating law enforcement officer to meet and exchange all discoverable materials not less than 30 days before trial. The bill specifies that the court is authorized to make such an order upon

a sufficient showing that the material subject to discovery or inspection is privileged. The court is authorized to order upon a sufficient showing that the material subject to discovery or inspection is privileged and requires the court to include a statement explaining the determination that the material is privileged.

A party may request a subsequent disclosure of information if the party learns additional material may exist, which was not known when the party made his or her initial request. Permission to comply with a request later than 30 days before trial must be made by a motion to the court.

The court is required to prohibit the party from introducing in evidence the material not disclosed unless the party proves that the material was unknown to the party even though the party diligently complied with the provisions of existing law governing discovery in criminal cases. The case must be dismissed by the court if it finds that the state has, in bad faith, destroyed, lost, or failed to collect evidence subject to the provisions of existing law governing discovery in criminal cases and requires the court to instruct the jury to infer that destroyed, lost, or uncollected evidence would have been favorable to the defendant if the court finds that the destruction, loss, or failure to collect evidence was not in bad faith. Finally, the bill defines "bad faith" for the purposes of determining whether the state has, in bad faith, destroyed, lost, or failed to collect evidence.

Assemblyman Yeager proposed an amendment on page 2 of ([Exhibit Q](#)). This amendment would delete the entire bill and then amend *Nevada Revised Statutes* (NRS) 174.315 to indicate that a subpoena can be issued for witnesses to appear before an evidentiary hearing. It amends NRS 174.335 to specify that providing the option of production of documents in lieu of personal appearance for a subpoena for documents does not invalidate the subpoena. Lastly, it amends NRS 175.161, subsection 3 jury instructions.

Chairman Yeager:

At this time I will take a motion to amend and do pass [A.B. 356](#).

ASSEMBLYMAN OHRENSCHALL MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 356.

ASSEMBLYWOMAN COHEN SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN HANSEN, PICKARD, AND
WHEELER VOTED NO.)

The floor statement is assigned to Assemblyman Ohrenschall.

Assembly Bill 276: Revises provisions relating to employment practices. (BDR 53-289)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 276 was sponsored by Assembly members Spiegel, Joiner, and Diaz, et al.; and Senators Parks, et. al. and heard in Committee on March 20, 2017 ([Exhibit R](#)).

Assembly Bill 276 prohibits an employer, employment agency, or labor organization from discriminating against a person with respect to employment or membership, as applicable, for inquiring about, discussing, or disclosing information about wages. This provision does not apply to any person who has access to information about the wages of other persons as part of his or her essential job functions and discloses the information to a person who does not have access to that information

Assemblywoman Spiegel proposed several amendments. The amendments would do the following:

1. Revise sections 1, subsection 1, paragraph (c); section 1, subsection 2, paragraph (c); and section 1, subsection 3, paragraph (c) to add that the employee voluntarily disclosed their wages.
2. Add that "employer" is defined as per Title VII of the Civil Rights Act of 1964.
3. Changing section 1, subsection 7, to include "unless the disclosure is ordered by the Labor Commissioner or a court of competent jurisdiction."
4. Add cosponsors to the bill.
5. Changing the effective date to upon passage and approval.

Chairman Yeager:

I will take a motion to amend and do pass with the listed amendments on A.B. 276.

ASSEMBLYWOMAN TOLLES MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 276.

ASSEMBLYWOMAN JAUREGUI SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblyman Hansen:

I was told that there was an amendment, or maybe I missed it, where businesses of 15 employees or fewer are not included. Is that in the bill? It is? Okay.

Chairman Yeager:

I will now take the vote.

THE MOTION PASSED. (ASSEMBLYMEN KRASNER, PICKARD, AND
WHEELER VOTED NO.)

The floor statement is assigned to Assemblywoman Spiegel.

Assembly Bill 438: Revises provisions relating to offenses involving controlled substances. (BDR 40-1071)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 438 was sponsored by Assemblyman Flores and heard in Committee on April 11, 2017 ([Exhibit S](#)).

Assembly Bill 438 revises such penalties and provides that the severity of the penalty depends on the quantity of the controlled substance possessed. The crimes of low-level drug possession, mid-level drug possession, and high-level drug possession are established.

This bill consolidates penalties stemming from a person knowingly or intentionally selling, manufacturing, delivering, bringing into this state, or being in actual or constructive possession of certain controlled substances other than marijuana. A person who knowingly or intentionally sells, manufactures, delivers or brings into this state, or who is knowingly or intentionally in actual or constructive possession of 500 grams or more of a controlled substance, except marijuana, or any mixture which contains any such controlled substance is punished for a category A felony by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served.

The court is authorized to reduce or suspend the sentence of a person found guilty of trafficking in a controlled substance if the person proves by clear and convincing evidence that his or her only participation in the offense consisted of the transportation of a controlled substance and such participation was the result of duress because of a threat made against the person or a member of his or her family.

The bill repeals two provisions in the law that provide it is unlawful for a person knowingly to use or be under the influence of a controlled substance except: (1) in accordance with a lawfully issued prescription; or (2) when administered to the person at certain rehabilitation clinics or hospitals. A person who violates either such provision is generally guilty of a category E felony unless the controlled substance is listed in schedule V, in which case the person is guilty of a gross misdemeanor.

There is an amendment proposed by Assemblyman Yeager on page 2 of ([Exhibit S](#)). It would delete the entire bill. It would keep the current drug trafficking levels the same as far as weight is concerned but rename the current crime of low-level trafficking to be level 1 drug possession and the current crime of mid-level to be level 2 drug possession. Conforming changes would be made to all of our drug trafficking statutes in the *Nevada Revised Statutes* (NRS). The current high-level trafficking would still be called

trafficking. Conforming changes would be made to all of our drug trafficking statutes in the NRS. It would make level 1 drug possession eligible for probation (schedule 1 only). Lastly, it would reduce the penalty for unlawful use of a controlled substance from a felony/gross misdemeanor to a misdemeanor level offense.

Chairman Yeager:

At this time I will take a motion to amend and do pass A.B. 438.

ASSEMBLYMAN WATKINS MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 438.

ASSEMBLYMAN FUMO SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN HANSEN, KRASNER, AND
WHEELER VOTED NO.)

The floor statement is assigned to Assemblyman Flores.

Assembly Bill 97: Revises provisions relating to evidence collected from forensic medical examinations of victims of sexual assault. (BDR 15-538)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 97 was sponsored by Assemblywoman Benitez-Thompson and Senator Ford. It was heard in Committee on April 12, 2017 (Exhibit T).

Assembly Bill 97 requires a law enforcement agency to submit a sexual assault forensic evidence kit ("SAFE kit") to the applicable forensic laboratory responsible for conducting a genetic marker analysis not later than 30 days after receiving the kit. Each forensic laboratory that receives a SAFE kit from a law enforcement agency is required to: (1) test the SAFE kit not later than 180 days after receiving the SAFE kit if the victim of a sexual assault requests such testing; and (2) report annually to the Subcommittee to Review DNA of the Advisory Commission on the Administration of Justice and to the Director of the Legislative Counsel Bureau for transmission to the next session of the Legislature, or to the Legislative Commission, as applicable. The report must include information concerning the number of SAFE kits that have been in the possession of the forensic laboratory for a period longer than one year and which have not been tested. The bill revises the name of the Subcommittee to reflect the broader duties assigned pursuant to this bill and requires the Subcommittee to additionally evaluate, review, and submit a report to the Commission regarding the submittal, storage, and testing of SAFE kits.

Assemblywoman Benitez-Thompson has submitted an amendment. The mock-up is on pages 3-7 of (Exhibit T). The amendment:

1. Clarifies that the provisions of the bill do not apply to any non-investigatory sexual assault forensic evidence kit associated with the victim who has chosen to remain anonymous or indicates that he or she is not a victim of sexual assault.
2. Provides that upon the completion of the genetic marker analysis, the forensic laboratory will include the DNA profile obtained in the state DNA database and Combined DNA Index System (CODIS).
3. Deletes the reporting requirement to the Advisory Commission on the Administration Justice.
4. Adds a requirement that if the Legislature is in session, the Director of the Legislative Counsel Bureau will ensure that each member of the Judiciary Committee for both the Assembly and Senate will receive a copy of the report.
5. Specifies what information must be contained in the report.
6. Deletes section 3 of the bill.
7. Allows the compensation officer to order the payment of compensation to any county in his jurisdiction where a sexual assault was committed for the reimbursement of costs associated with a forensic medical examination.
8. Requires the forensic laboratory to submit its final report to the Legislative Commission on or before January 31, 2018.
9. Deletes the effective date of July 1, 2017.

Chairman Yeager:

I have had a lot of time to think about this bill, and I am going to be proposing a conceptual amendment that would require the laboratories to complete the testing of the kits within 120 days. In companion with that, I am going to make a conceptual amendment to ask for a General Fund appropriation to make sure that it happens, so we are not in a situation of an unfunded mandate. I do think it is important to make sure that these kits do not sit on the shelf. We heard a lot of testimony about some of these kits being 20 to 30 years old. Therefore, I am adding the conceptual amendment of 120-day deadlines for the labs as well as a General Fund appropriation.

I will now take a motion on A.B. 97 with the amendments in the work session document as well as the conceptual amendment.

ASSEMBLYWOMAN JAUREGUI MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 97.

ASSEMBLYMAN HANSEN SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblyman Pickard:

I share the desire to get these things processed quickly; I just do not know if they even received the appropriation if that would be possible. I recall some of the testimony being that there is a lot of equipment and commissioning that needs to go into that. I would like to know if they think it is even possible.

Chairman Yeager:

I am not asking for a specific amount of appropriation, but I do think in this circumstance whatever amount of money needs to be paid to make this happen in a speedy fashion is well worth it. I think in terms of the appropriation, the money and the logistics issues would go to Ways and Means if we pass it out of Committee. Those details could be ironed out. At this time, I am not going to invite anyone to come up to the table to rehash that as it can be figured out in Ways and Means.

Assemblyman Hansen:

The last thing we want to do is jeopardize the bill; as a conceptual amendment, I am fine with it. Would it go to Ways and Means anyway? Was there a fiscal note on the bill? I do not want to jeopardize something that clearly is needed. I am fully supportive of the idea and, in fact, if we could make it faster than 120 days that would be great too. However, we have to be pragmatic and practical, so we want to make darn sure we are not unintentionally jeopardizing the bill.

Assemblyman Wheeler:

I am supportive of this bill as well but, if I remember correctly, it is physically impossible to do it in 120 days. It does have to be hashed out. I would not be in favor of the conceptual amendment, but I am definitely in favor of the bill. I will vote yes.

Chairman Yeager:

I will now take the vote.

THE MOTION PASSED UNANIMOUSLY.

The floor statement is assigned to Assemblywoman Benitez-Thompson.

**Assembly Bill 453: Revises provisions relating to pleas in criminal cases.
(BDR 14-1065)**

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 453 was sponsored by Assemblyman Yeager and heard in Committee on April 12, 2017 ([Exhibit U](#)).

Assembly Bill 453 allows a defendant to withdraw all pleas in a written plea agreement and proceed to trial if the court rejects the agreement and provides that a written plea agreement is void if the defendant violates the agreement. The measure revises the form of a written plea agreement to include the defendant's acknowledgement of the above provisions.

Assemblyman Yeager proposed an amendment, and it is on page 2 of ([Exhibit U](#)). The amendment would delete the entire bill and insert language expressly authorizing a conditional plea.

Chairman Yeager:

At this time I will take a motion to amend and do pass A.B. 453.

ASSEMBLYMAN THOMPSON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 453.

ASSEMBLYMAN WATKINS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

I will take the floor statement.

Assembly Bill 470: Creates a pre-prosecution diversion program. (BDR 14-1062)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 470 was sponsored by Assemblyman Yeager and heard in Committee on April 12, 2017 ([Exhibit V](#)).

Assembly Bill 470 creates a pre-prosecution diversion program for certain persons who have been accused of a misdemeanor, gross misdemeanor, or felony. The bill specifies who is eligible for the program and provides when a court is required to order a defendant to complete a pre-prosecution diversion program. The probation officer, the district attorney, and the defendant are required to appear at a hearing to determine whether the defendant could be rehabilitated by a program of treatment and to determine any appropriate sanctions to be imposed on the defendant, which may include, without limitation, community service, restitution, or a curfew. The bill requires the court to dismiss the charge or charges against the defendant if he or she successfully completes the terms and conditions of the pre-prosecution diversion program. A defendant who fails to complete the terms and conditions of the pre-prosecution diversion program must be dismissed from the program and be prosecuted in the normal manner provided by law.

There is a conceptual amendment on pages 2 and 3 of ([Exhibit V](#)). Assemblyman Yeager's amendment proposes to:

1. Make the diversionary program permissive rather than mandatory.
2. It removes the age limitation.
3. It limits the program to first-time offenders and removes the requirement that the Department of Parole and Probation would need to be involved by having to interview the participant or that there would need to be a hearing in court.
4. The diversionary requirements (drug treatment, GED, community service) could either be completed through community-based providers or more formal court programs, if available, and if there is room.
5. The defendant would not be on probation with the Department of Parole and Probation. Instead, it would be incumbent on the defendant and/or defense counsel to ensure compliance with the requirements of preprosecution diversion.
6. It would clarify that a good faith effort must be made to make full restitution and, if the defendant proves a financial inability to pay the restitution, the defendant must sign a civil confession of judgment of any balance remaining.
7. Entry into the program for a qualifying defendant would be at the discretion of the judge at the initial arraignment or shortly thereafter.

Chairman Yeager:

I will take a motion to amend and do pass A.B. 470.

ASSEMBLYMAN OHRENSCHALL MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 470.

ASSEMBLYMAN FUMO SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblywoman Krasner:

In my notes, I see there were some concerns from law enforcement and the Nevada District Attorneys Association. I am wondering if the sponsor of the bill was able to meet with the parties and that all interested parties came to an amicable decision and an amendment.

Chairman Yeager:

I did have a chance to meet with the district attorneys to discuss the bill. We were not able to come to an amicable resolution. Therefore, the bill in this work session document is the same version you heard in Committee. I will now take the vote.

THE MOTION PASSED. (ASSEMBLYMEN HANSEN, KRASNER,
TOLLES, AND WHEELER VOTED NO.)

I will take the floor statement.

Assembly Bill 243: Revises provisions relating to victims of sex trafficking and involuntary servitude. (BDR 14-444)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 243 was sponsored by the Assembly Committee on Judiciary and heard in Committee on March 16, 2017 ([Exhibit W](#)).

Assembly Bill 243 provides that a district court has exclusive jurisdiction to hear a motion to vacate a judgment if the defendant was convicted of certain offenses and the defendant's participation in the offense was the result of having been a victim of sex trafficking or involuntary servitude.

There are two amendments for this measure. The first one is from Kerrie Kramer, Greenberg Traurig LLP. She proposed the following amendment to provide notice to all agencies: noticing all prosecuting agencies, law enforcement agencies, and the central repository ensures all parties affected have the opportunity to file a motion of opposition and be heard, regardless of jurisdiction.

In addition, Assemblyman Yeager proposed an amendment to this bill. The amendment does the following:

1. Move this procedure to the records sealing statute, *Nevada Revised Statutes* (NRS) Chapter 179, and require that any petition brought forward must be to vacate the conviction and seal the records.
2. Allow the judge hearing the motion to vacate/petition, to seal, or to enter an interim order to vacate the conviction if the petitioner has met the burden to vacate the conviction but the petition is somehow deficient regarding the petition to seal.
3. Require the judge to order the sealing of records related to the conviction being vacated, even if there are other convictions that are ineligible for sealing, either by operation of law or because of a deficiency in the petition to seal records.
4. It would clarify the petition must be brought in the court where the conviction or convictions happened, if the conviction or convictions happened in one court, otherwise the motion/petition can be brought in each court where it happened or in district court.

Chairman Yeager:

I want everyone to know that I did meet with the district attorney's offices on this one. Their opposition to this bill was essentially that it should be moved to the records sealing statute, which we have now done. If I could have a thumbs up in the audience that everyone is okay with this. Everyone is okay with this piece of legislation, as far as I know. With that being said, I will take a motion to amend and do pass A.B. 243.

ASSEMBLYMAN PICKARD MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 243.

ASSEMBLYMAN WHEELER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

The floor statement is assigned to Assemblywoman Tolles.

**Assembly Bill 253: Revises provisions relating to adjudications of mental health.
(BDR 39-688)**

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 253 was sponsored by the Assembly Committee on Judiciary and heard in Committee on March 23, 2017 ([Exhibit X](#)).

Assembly Bill 253 revises the provisions governing the examination and evaluation by a physician or licensed psychologist of a person alleged to be a person with mental illness and to require the physician or psychologist to submit the written summary of findings and evaluation not later than the time of the hearing on the petition. The bill requires the court to transmit a record of the order to each law enforcement agency of this state with which the court has entered into an agreement for such transmission for inclusion in certain databases. The bill establishes a procedure by which a public or private hospital or a mental health facility may request and obtain a copy of a court order of involuntary admission which relates to a person alleged to be a person with mental illness who has been admitted to the hospital or facility.

Andres Moses, Eighth Judicial District Court, proposed an amendment [pages 2-4, ([Exhibit X](#))]. The amendment would do the following:

1. Change the amount of time the physician or psychologist has to submit to the court a report from "not later than 48 hours" to "not later than 24 hours" before the hearing.
2. Revises the definition of a "person with mental illness" as defined by *Nevada Revised Statutes* 433A.115 to include persons required to participate in a program of community-based or outpatient services.

The next amendment from Assemblyman Ohrenschall, in discussion with Judge Voy, proposes to revise the statutory language to provide that a person being held involuntarily under a Legal 2000 and at all other stages of the involuntary commitment process would have access to an emergency writ of habeas corpus before a judge so as to have an emergency hearing in front of a judge to seek their potential release.

Chairman Yeager:

You probably remember some testimony that the original bill removed the time frame; it was 48 hours to no time. The parties did work together on this to come to a consensus on an amendment of 24 hours for the disclosure of reports as well as putting a mechanism in where someone who is involuntarily civilly committed would have the option to go in front of the court to ask for their release. This does add the procedural protections that were concerns during the hearing. I will take a motion to amend and do pass A.B. 253.

ASSEMBLYWOMAN KRASNER MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 253.

ASSEMBLYMAN FUMO SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblywoman Krasner:

I just wanted to say that Vice Chairman Ohrenschall and I worked together extensively with Judge Voy, and it was a real privilege to work with someone who conducts themselves so professionally and honestly as Vice Chairman Ohrenschall.

Assemblyman Ohrenschall:

I would like to thank Assemblyman Fumo, Assemblywoman Krasner, and Judge Voy. We had a very lengthy conference call to try to hammer out concerns that the three of us had. Thank you, Chairman, for considering that. With the kind of an emergency court appearance that the bill provides for, it addresses many of the concerns we had.

Chairman Yeager:

I will now take the vote.

THE MOTION PASSED UNANIMOUSLY.

The floor statement is assigned to Assemblywoman Krasner.

Assembly Bill 377: Revises provisions relating to the competency of a defendant in a criminal case. (BDR 14-1074)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 377 was sponsored by Assemblyman Ohrenschall and heard in Committee on April 5, 2017 ([Exhibit Y](#)).

Assembly Bill 377 provides that a prosecuting attorney may not seek an indictment of the defendant for any offense during the period in which the court is considering whether the defendant is competent or incompetent. If the defendant has been found incompetent, with no substantial probability of attaining competency in the foreseeable future, the proceedings against the defendant, which were suspended, must be dismissed unless the prosecuting attorney has a good faith belief, based on articulable facts, that the defendant has attained competency.

Christy Craig, Clark County Public Defender's Office, proposed the following amendment [pages 2 and 3, ([Exhibit U](#))]:

1. Section 1 provides that a prosecuting attorney may not seek an indictment while the defendant's competency is being determined without the approval of the chief judge or designee of the district court.
 - A prosecuting attorney may apply to the chief judge of the district court or designee for a determination that adequate cause exists to proceed to the grand jury under certain circumstances.
2. Section 2 provides that after the defendant has been found incompetent, no new charge may arise out of the same circumstances unless the prosecuting attorney applies to the chief judge of the district court or designee for a determination based on certain conditions.
 - Provides for 24-hour notice to the attorney of the defendant.

Chairman Yeager:

I will take a motion to amend and do pass A.B 377.

ASSEMBLYWOMAN JAUREGUI MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 377.

ASSEMBLYMAN WATKINS SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN HANSEN, KRASNER,
PICKARD, TOLLES, AND WHEELER VOTED NO.)

The floor statement is assigned to Assemblyman Ohrenschall.

Assembly Bill 341: Revises provisions governing juvenile justice. (BDR 5-964)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 341 was sponsored by Assemblyman Ohrenschall and heard in Committee on March 30, 2017 ([Exhibit Z](#)).

Assembly Bill 341 makes four changes to juvenile law by: (1) authorizing an attorney who represents a juvenile to consult with a licensed social worker, mental health professional, educator, or any other expert deemed necessary; (2) requiring a child being interviewed or interrogated as part of a juvenile proceeding to be represented by counsel and requiring a peace officer or probation officer to record the interview or interrogation; (3) mandating a presumption that a child is indigent for the purpose of appointing an attorney and that an affidavit of financial disability not be required; and (4) making findings regarding a juvenile's right to due process and urging the Nevada Supreme Court to adopt rules for attorneys representing juveniles to ensure effective representation.

There is an amendment proposed by Assemblyman Ohrenschall on pages 2 and 3 of ([Exhibit Z](#)).

Chairman Yeager:

Assemblyman Ohrenschall, would you like to explain the amendment?

Assemblyman Ohrenschall:

This bill deals with juvenile justice originally trying to provide an attorney to certain children during a law enforcement interrogation. In an effort to find consensus, we have kept the parts of sections 1 and 4 that everyone seemed to be in universal agreement on. The contentious parts of sections 2 and 3 were deleted. There might be more work on that if I can arrive at a consensus with all the parties later on. That is where we are at; I believe we have a bill that has parts that are agreeable to all parties.

Chairman Yeager:

I will take a motion to amend and do pass A.B. 341.

ASSEMBLYWOMAN COHEN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 341.

ASSEMBLYMAN THOMPSON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN HANSEN, KRASNER,
PICKARD, AND WHEELER VOTED NO.)

The floor statement is assigned to Assemblyman Ohrenschall.

Assembly Bill 462: Revises provisions relating to constructional defects. (BDR 3-1010)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 462 was sponsored by Assemblywoman Carlton and heard in Committee on April 11, 2017 ([Exhibit AA](#)).

Assembly Bill 462 revises the definition of "constructional defect" to provide that a constructional defect is a defect which: (1) is done in violation of law; (2) proximately causes physical damage to the residence, appurtenance, or real property to which the residence or appurtenance is affixed; (3) is not completed in a good and workmanlike manner in accordance with the generally accepted standard of care in the industry; or (4) presents an unreasonable risk of injury to a person or property.

The bill authorizes one notice to be sent concerning similarly situated owners of residences or appurtenances within a single development that allegedly have common constructional defects. A homeowners' association is authorized to institute, defend, or intervene in litigation, arbitration, mediation, or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community.

The information to be included in a notice of constructional defect must state in reasonable detail, rather than specific detail, the defect or any damage or injury to each residence or appurtenance that is subject to the notice, and describe in reasonable detail the location of the defect rather than state the exact location. The requirement that the owner of the residence or appurtenance include a signed statement in the notice in which the owner verifies that each defect, damage, and injury exists in the residence or appurtenance is removed.

The claimant or a representative of the claimant, and not the claimant and an expert who provided an opinion, must be present at the required inspection of the alleged defect. The bill removes a provision of existing law, which requires a claimant to exhaust certain claims under the homeowner's warranty before commencing a cause of action for constructional defects. The bill authorizes a claimant to recover reasonable attorney's fees as part of the claimant's damages in a cause of action for constructional defects.

The statute of repose for all actions for damages caused by a deficiency in construction of improvement to real property is changed from six years to within eight years after substantial completion of the improvement. Such an action is authorized to be commenced at any time if the deficiency was a result of willful misconduct or was fraudulently concealed or caused injury to or wrongful death of a person.

There are two proposed amendments to this measure. The Division of Insurance of the Department of Business and Industry proposed an amendment clarifying section 12 of the bill. The language of the proposed amendment clarifies the intent for a homeowner to seek recourse under a builder's warranty, rather than any insurance product or service contract.

Chairman Yeager:

Ms. Thornton, could I interrupt you? We are going to hold off on this bill for just a moment. We will take it up later. I would like to move on to Assembly Bill 444.

Assembly Bill 444: Sets forth certain requirements relating to the search and seizure of the property of an attorney. (BDR 14-1072)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 444 was sponsored by Assemblyman Ohrenschall and heard in Committee on April 12, 2017 ([Exhibit BB](#)). This bill sets forth requirements upon which a search warrant may be issued to search and seize the property of an attorney. The bill requires such a search warrant to be executed in a manner that minimizes the scrutiny of the property that is subject to the attorney-client privilege and authorizes a team of certain officers and attorneys to review property during the search to determine whether the property is covered by the search warrant. A district attorney or the Attorney General is required to ensure that any property seized during a search conducted pursuant to such a search warrant is reviewed to determine whether the attorney-client privilege applies and returned to the attorney from whom the property was seized if the seized property is subject to the attorney-client privilege. There are no amendments to this measure.

Chairman Yeager:

I will take a motion to do pass A.B. 444.

ASSEMBLYMAN HANSEN MADE A MOTION TO DO PASS
ASSEMBLY BILL 444.

ASSEMBLYMAN ELLIOT T. ANDERSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

The floor statement is assigned to Assemblyman Ohrenschall.

Assembly Bill 173: Revises provisions governing the process for a change of name. (BDR 3-586)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 173 was sponsored by Assemblywoman Krasner, et al., and heard in Committee on March 21, 2017 ([Exhibit CC](#)).

Assembly Bill 173 requires an applicant for a name change to submit with the verified petition to the district court a statement signed under penalty of perjury that the applicant is not changing his or her name for a fraudulent purpose. The bill changes the requirement that an applicant publish a notice of the name change in a newspaper of general circulation in the county once a week for three successive weeks to at least one time.

There is one amendment adding Assemblywoman Jauregui and Assemblyman Yeager as sponsors of the bill.

Chairman Yeager:

I will take a motion to amend and do pass A.B. 173.

ASSEMBLYMAN THOMPSON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 173.

ASSEMBLYWOMAN JAUREGUI SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN PICKARD AND WATKINS
VOTED NO.)

The floor statement is assigned to Assemblywoman Krasner.

Assembly Bill 395: Revises provisions governing juvenile justice. (BDR 5-853)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 395 was sponsored by Assemblymen Frierson, Ohrenschall, and Benitez-Thompson. It was heard in Committee on March 27, 2017 (Exhibit DD).

Assembly Bill 395 revises statutes governing registration and community notification concerning certain juvenile sex offenders. The measure sets forth a revised registration and community notification process regarding a child who is 14 years of age or older at the time of an alleged offense and who is adjudicated delinquent for the offense. Procedures concerning the termination of registration and community notification requirements for such juveniles are also provided, as are continuing registration and community notification requirements for a child adjudicated delinquent for an aggravated sexual offense.

The measure authorizes the director of juvenile services and the Youth Parole Bureau to release certain information concerning a child to a law enforcement agency and to a school district under certain circumstances. In addition, the increased penalty for committing any act of open or gross lewdness or who makes any open and indecent or obscene exposure of his or her person, or of the person of another in the presence of a child under the age of 18 years or a vulnerable person does not apply if the person committing the offense is under the age of 18 years. Lastly, appropriations from the State General Fund are made to each judicial district in the state. This deals with the Adam Walsh Child Protection and Safety Act. There are no amendments to this measure.

Chairman Yeager:

At this time, I will take a motion to do pass A.B. 395.

ASSEMBLYMAN WATKINS MADE A MOTION TO DO PASS
ASSEMBLY BILL 395.

ASSEMBLYWOMAN JAUREGUI SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

The floor statement is assigned to Assemblywoman Miller.

**Assembly Bill 218: Revises provisions concerning certain juvenile offenders.
(BDR 14-215)**

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 218 was sponsored by Assemblyman Hambrick and heard in Committee on February 24, 2017 ([Exhibit EE](#)).

Assembly Bill 218 authorizes the court to depart from any mandatory sentencing enhancements and reduce any mandatory minimum period of incarceration that the person is required to serve up to 35 percent if the court determines that such a departure or reduction is warranted given the age of the person and his or her prospects for rehabilitation. A prisoner who is sentenced as an adult for an offense that was committed when he or she was under 18 years of age and is convicted of a subsequent offense or offenses not involving violence that the prisoner committed when he or she was 18 years of age or older but less than 24 years of age is eligible for parole after serving the required 15 or 20 calendar years of incarceration regardless of any additional sentence imposed for the subsequent offense or offenses.

There is one amendment for this measure. The mock-up is on page 2 of ([Exhibit EE](#)). The amendment was proposed by John T. Jones, Kristin Erickson, and Jennifer Noble, from the Nevada District Attorneys Association. This amendment would delete section 1, subsection 2, paragraph (a); section 2; and section 3, subsection 2 from the bill.

Chairman Yeager:

I will take a motion to amend and do pass A.B. 218.

ASSEMBLYMAN WHEELER MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 218.

ASSEMBLYMAN HANSEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

The floor statement is assigned to Assemblyman Wheeler.

**Assembly Bill 362: Revises provisions relating to educational personnel.
(BDR 34-1144)**

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 362 was sponsored by Assemblywoman Tolles, Assemblyman Watkins, and Senator Gansert, et al, and heard in Committee on April 10, 2017 ([Exhibit FF](#)).

Assembly Bill 362 seeks to close certain reporting and communication loopholes between schools and districts so a teacher, administrator, or other school personnel cannot move from one school to another to sexually exploit or abuse children. This bill also seeks to align with current federal policies found in the Every Student Succeeds Act of 2015. It would apply to all teachers, administrators, substitutes, and personnel who interact with children in public schools, including charter schools

There are five proposed amendments and several pages. I believe Assemblywoman Tolles is prepared to review the amendments.

Assemblywoman Tolles:

I want to thank the Legislative Counsel Bureau for their around-the-clock work on this measure. I want to thank all the stakeholders in regard to A.B. 362. The majority of the amendments were very technical in nature regarding things like who was responsible for delegating which responsibilities and so forth, but as briefly as I can I will walk through the first amendment which adds cosponsors to the bill. In the second amendment, we changed the definitions from "probable cause" to "either actual or constructive knowledge." The third amendment came from the Department of Education dealing with some technical changes to how they deal with licensure and how they communicate the denial of licensure on a monthly basis.

The fourth amendment came from the school districts, specifically Clark County School District, concerning the jurisdiction of who manages the licensed versus the nonlicensed employees in a position and so forth. There are some additional amendments from the Clark County School District that deal with who handles the fines as well as how they manage out-of-state transfer of information and protections for disclosing the information, and finally, which disciplinary documents are transferred from department to department and how to deal with collective bargaining agreements.

The fifth amendment proposed by Natha Anderson, from the Washoe Education Association, is adding clarification to the language of "unfounded, unsubstantiated, or inconclusive" to "false" allegations because that matched the language that is currently used. One of the amendments from the Department of Education also added that this extends to private and parochial schools.

Chairman Yeager:

Thank you, Assemblywoman Tolles, for your hard work on this bill. I will take a motion to amend and do pass A.B. 362.

ASSEMBLYMAN PICKARD MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 362.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

The floor statement is assigned to Assemblywoman Tolles.

**Assembly Bill 278: Revises provisions relating to the support of children.
(BDR 11-892)**

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 278 was sponsored by Assemblymen Pickard, Hambrick and Cohen, et al., and Senator Harris. It was heard in Committee on March 30, 2017 ([Exhibit GG](#)).

Assembly Bill 278 creates the Committee to Review Child Support Guidelines and requires the Committee to review the existing child support guidelines established in this state and provide any recommendations for revisions to the Administrator of the Division of Welfare and Supportive Services of the Department of Health and Human Services by July 1, 2018. The Committee must review the guidelines at least once every four years.

The Administrator is required to review and consider any recommendations of the Committee and adopt regulations establishing the child support guidelines. The bill repeals the provisions of existing law establishing the general formula for calculating child support and certain related provisions and provides that the repeal of such provisions becomes effective on the effective date of the regulations adopted by the Administrator establishing child support guidelines.

Child support guidelines that are adopted by the Administrator are required to be adopted in accordance with the Nevada Administrative Procedure Act and codified in the Nevada Administrative Code.

There is one proposed amendment by Assemblyman Pickard and the mock-up is on pages 2 and 3 of ([Exhibit GG](#)). The amendment clarifies when the Committee will convene and allows additional meetings at the discretion of the chair.

Chairman Yeager:

I will take a motion to amend and do pass A.B. 278.

ASSEMBLYWOMAN COHEN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 278.

ASSEMBLYMAN PICKARD SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblyman Elliot T. Anderson:

This is the bill I worked on during the interim. I talked to Assemblyman Pickard, and I was wondering if that motion could be rescinded and a new motion made with an amendment including myself as a cosponsor and all the other amendments?

Chairman Yeager:

I will ask that we now rescind the motion on the floor.

ASSEMBLYWOMAN COHEN RESCINDED THE MOTION.

ASSEMBLYMAN PICKARD RESCINDED THE SECOND.

We will now take a new motion to amend and do pass with the amendment in the work session document and adding Assemblyman Elliot T. Anderson as a cosponsor.

ASSEMBLYWOMAN COHEN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 278.

ASSEMBLYMAN PICKARD SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

The floor statement is assigned to Assemblyman Pickard.

[Assembly Bill 365](#): Revises provisions relating to marriage. (BDR 11-1020)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 365 was sponsored by Assemblywoman Cohen and Assemblywoman Swank and heard in Committee on April 3, 2017 ([Exhibit HH](#)).

Assembly Bill 365 creates a "marriage officiant" who is a person, other than a minister, other church or religious official authorized to solemnize a marriage, or notary public, who obtains a certificate of permission to perform marriages. An applicant who desires to be a marriage officiant must successfully complete the required course for marriage officiants established by the county clerk. Marriage officiants are included in the statewide database of certain

persons authorized to perform marriages and must comply with Nevada laws pertaining to persons who perform marriages. The certificate of permission to perform marriages expires in five years and may be revoked. Lastly, the bill allows for the county clerk to issue a vow renewal certificate to a couple who renews their marriage vows and sets forth the requirements for doing so.

Assemblywoman Cohen has proposed an amendment to the bill and the mock-up is on pages 2-10 of ([Exhibit HH](#)). The amendment:

1. Allows the county clerk to establish a program for the issuance of a certificate of vow renewal.
2. Deletes language referring to adoption of an ordinance.
3. Provides that the county clerk may charge and collect a fee in the same amount as the fee collected for a marriage license.
4. Provides that vow renewal certificates are exempt from any schedule for the retention of records.
5. Provides that the county clerk cannot authorize a marriage officiant to solemnize a marriage unless the county clerk has established a course for marriage officiants.

Chairman Yeager:

I will take a motion to amend and do pass A.B. 365.

ASSEMBLYMAN OHRENSCHALL MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 365.

ASSEMBLYMAN PICKARD SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblyman Thompson:

I will be a yes for this measure. For the record, I have constituents who are ministers that had issues and I applaud Assemblywoman Cohen for getting them together with Clark County Clerk Lynn Goya and having a discussion. There will be continued conversations, but thank you so much.

Assemblywoman Cohen:

I wanted to thank Assemblyman Thompson for reaching out to me and Clerk Goya to facilitate the conversation.

Chairman Yeager:

I will now take the vote.

THE MOTION PASSED UNANIMOUSLY.

The floor statement is assigned to Assemblywoman Cohen.

Assembly Bill 380: Revises provisions relating to real property. (BDR 10-340)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 380 was sponsored by Assemblyman Elliot T. Anderson and heard in Committee April 5, 2017 ([Exhibit II](#)).

Assembly Bill 380 authorizes an owner of real property to record a notice in the office of the county recorder that provides that any use of the owner's real property is with the permission of and subject to the control of the owner. This bill authorizes an owner of land to post certain notice stating that the right to pass over such land is by permission and subject to the control of the owner. A person is prohibited from maintaining an action constituting an easement by prescription regardless of whether the owner has recorded a notice or has posted signs.

If a governmental entity is using private land by an expenditure of public money in a manner that the owner knows or should have known that the public is making such use of his or her land, the owner allows for such use to continue, and the owner does not take reasonable steps to enjoin, remove, or prohibit such use, after five years the governmental entity has a vested right to continue such use.

Assemblyman Elliot T. Anderson has proposed an amendment and the mock-up is on pages 2-4 of ([Exhibit II](#)). The amendment does the following:

1. Adds the language "the owner opens the owner's land to use by the public" throughout the bill to clarify the use of the property.
2. Adds a reference to a grant of easement.
3. Provides that if an owner of land opens the owner's land to use by the public, any use by a person or the public cannot ripen into an easement by prescription if certain notice is posted.
4. Allows a local government to establish by ordinance restrictions on the size, placement, or composition of signs posted.

Chairman Yeager:

I will take a motion to amend and do pass A.B. 380.

ASSEMBLYMAN ELLIOT T. ANDERSON MOVED TO AMEND AND DO PASS ASSEMBLY BILL 380.

ASSEMBLYWOMAN JAUREGUI SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblyman Elliot T. Anderson:

There has been discussion around section 3, subsection 3, and I want to clarify the record. I believe that the correct statutory period is five years based upon this being an easement. There is no intent for that section to apply if the whole fee simple interest is encumbered by an improvement, so I think that should be clear. Furthermore, there is no intent to overrule *White Pine Lumber Company v. City of Reno* [106 Nev. 778, 801 P.2d 1370 (1990)]. That case had discreet facts that involved a forced dedication of the whole fee interest based upon condition of an approval of a condominium project. In that case, the whole fee simple interest was taken. Section 3, subsection 3 does not speak to that sort of situation, so there is no intent, by me as the bill sponsor or by this Committee, for it to be overruled. I wanted to make that clear for the record.

Assemblyman Hansen:

I was wondering about section 3, subsection 3 because some people brought it to my attention, but I think he just addressed that. Is that correct, Assemblyman Anderson?

Assemblyman Elliot T. Anderson:

That is correct, Assemblyman Hansen. Again, that dealt with adverse possession, so the court analogized to the 15-year period and, in that case, it was more applicable. Here you have a prescriptive easement, which under current Nevada law is five years. That is the only intent of the legislation.

Assemblyman Ohrenschall:

I do appreciate the sponsor's intent. I have concerns about private property rights. Primarily, section 3, subsection 3, regarding the example I brought up at the hearing. Say you have someone who owns a parcel of land sitting on Las Vegas Boulevard and they live in Connecticut while taking care of an elderly relative. They pay their property taxes every year, but they are not certain as to what is going on. Improvements are made, whether it is a sidewalk or palm trees. The five years go by, and now they have this prescriptive easement. Which, as I understand, it is a "taking" in terms of taking a property right. I have concerns about how this is applicable. The effective date is October 1, 2017. If there have been improvements on existing land that had been there the last six years, does that mean that on October 2, 2017 we may have a rush of governmental agencies recording different easements on property that is available? Therefore, I have concerns; I really tried to get

there. I appreciate all the work the sponsor has done but unfortunately, I will be voting no because of these concerns.

Assemblyman Pickard:

I know Assemblyman Anderson has been working hard to find the right language. In my discussions with him, we were thinking that we will continue to work on this. I will be voting yes with that understanding.

Assemblyman Yeager:

Thank you, Assemblyman Pickard. If at some point you change your mind, please let Assemblyman Anderson or myself know before the floor vote.

Assemblyman Watkins:

I will ditto some of the concerns that have already been expressed. I have an additional concern in section 1, subsection 1, that recording of the document would place a burden on the rest of the public to protect their title interest. I commend Assemblyman Anderson for all the hard work he has done in trying to accomplish this. I will be voting yes because I know he will continue to work hard to get this right.

Chairman Yeager:

I will now take the vote.

THE MOTION PASSED. (ASSEMBLYMEN HANSEN AND
OHRENSCHALL VOTED NO.)

The floor statement is assigned to Assemblyman Elliot T. Anderson. At this time, I will open the meeting up for public comment.

Tonja Brown, Private Citizen, Carson City:

Thank you for passing these bills and for taking the time to listen to our concerns.

Assemblyman Watkins:

I wanted to take a moment on behalf of the Committee and thank the Chairman for his hard work. He often says it is the hardest working Committee. I believe everyone would agree that we have the hardest working Chairman on any committee in this building. I just wanted to express my gratitude.

Chairman Yeager:

Thank you all for that, and I want to thank Vice Chairman Ohrenschall. The staff, as you know, has been absolutely incredible through this process. We have a lot of hard work ahead of us but for now, we are going into recess until the call of the Chair. We are not adjourning just yet. Before we finish today, we will have to adjourn. With that being said, we are going to stand in recess until the call of the Chair.

The meeting recessed [at 10:36 a.m.]. The meeting resumed [at 3:27 p.m.].

Assembly Bill 268: Authorizes certain persons to file a post-conviction petition to pay the cost of a genetic marker analysis. (BDR 14-638)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 268 was sponsored by Assemblyman Watkins, Assemblyman Fumo, Assemblyman Ohrenschall, Assemblywoman Jauregui, Assemblywoman Bilbray-Axelrod, et al, and Senator Hardy. It was heard in Committee on March 15, 2017 ([Exhibit JJ](#)).

Assembly Bill 268 authorizes a person convicted of a felony to file a post-conviction petition requesting to pay the cost of a genetic marker analysis. After the petition is filed, the court is not required to schedule a hearing on the petition. The court is required to order a genetic marker analysis if such a petition is filed. The petitioner who files the petition is required to pay the cost of the genetic marker analysis before the analysis is performed and is not eligible for an exemption from payment.

Assemblyman Watkins has proposed an amendment. This amendment would provide for a transfer fee for sending evidence to a private lab. It would limit the choice of a private lab to labs having a contract with the state, unless the state does not have contracts with at least two private labs. It would make the provisions of the act not severable—meaning, if any part is unconstitutional, the act itself is unconstitutional. Lastly, it would move the effective date to July 1, 2018, to allow time for the state to contract with private labs.

Chairman Yeager:

I will take a motion to amend and do pass A.B. 268.

ASSEMBLYWOMAN JAUREGUI MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 268.

ASSEMBLYMAN FUMO SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN PICKARD, TOLLES, AND
WHEELER VOTED NO.)

The floor statement is assigned to Assemblyman Watkins.

Chairman Yeager:

We are going to stand in recess until the call of the Chair [at 3:28 p.m.].

The meeting resumed [at 5:30 p.m.]. The meeting adjourned [at 5:31 p.m.].

RESPECTFULLY SUBMITTED:

Janet Jones
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 [Assembly Bill 125](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit D](#) is the Work Session Document for [Assembly Bill 135](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit E](#) is the Work Session Document for [Assembly Bill 136](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit F](#) is the Work Session Document for [Assembly Bill 119](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit G](#) is the Work Session Document for [Assembly Bill 123](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit H](#) is the Work Session Document for [Assembly Bill 314](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit I](#) is the Work Session Document for [Assembly Bill 207](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit J](#) is the Work Session Document for [Assembly Bill 411](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit K](#) is the Work Session Document for [Assembly Bill 412](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit L](#) is the Work Session Document for [Assembly Bill 413](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit M](#) is the Work Session Document for [Assembly Bill 414](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit N](#) is the Work Session Document for [Assembly Bill 260](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit O](#) is the Work Session Document for [Assembly Bill 376](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit P](#) is a letter dated April 6, 2017, regarding [Assembly Bill 376](#) to members of the Assembly Committee on Judiciary, from the Clark County Public Defender's Office, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit Q](#) is the Work Session Document for [Assembly Bill 356](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit R](#) is the Work Session Document for [Assembly Bill 276](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit S](#) is the Work Session Document for [Assembly Bill 438](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit T](#) is the Work Session Document for [Assembly Bill 97](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit U](#) is the Work Session Document for [Assembly Bill 453](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit V](#) is the Work Session Document for [Assembly Bill 470](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit W](#) is the Work Session Document for [Assembly Bill 243](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit X](#) is the Work Session Document for [Assembly Bill 253](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit Y](#) is the Work Session Document for [Assembly Bill 377](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit Z](#) is the Work Session Document for [Assembly Bill 341](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit AA](#) is the Work Session Document for [Assembly Bill 462](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit BB](#) is the Work Session Document for [Assembly Bill 444](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit CC](#) is the Work Session Document for [Assembly Bill 173](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit DD](#) is the Work Session Document for [Assembly Bill 395](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit EE](#) is the Work Session Document for [Assembly Bill 218](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit FF](#) is the Work Session Document for [Assembly Bill 362](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit GG](#) is the Work Session Document for [Assembly Bill 278](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit HH](#) is the Work Session Document for [Assembly Bill 365](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit II](#) is the Work Session Document for [Assembly Bill 380](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit JJ](#) is the Work Session Document for [Assembly Bill 268](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.