

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

**Seventy-Seventh Session
April 12, 2013**

The Committee on Judiciary was called to order by Chairman Jason Frierson at 8:48 a.m. on Friday, April 12, 2013, 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 nelis.leg.state.nv.us/77th2013. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Jason Frierson, Chairman
Assemblyman James Ohrenschall, Vice Chairman
Assemblyman Richard Carrillo
Assemblywoman Lesley E. Cohen
Assemblywoman Olivia Diaz
Assemblywoman Marilyn Dondero Loop
Assemblyman Wesley Duncan
Assemblywoman Michele Fiore
Assemblyman Ira Hansen
Assemblyman Andrew Martin
Assemblywoman Ellen B. Spiegel
Assemblyman Jim Wheeler

COMMITTEE MEMBERS ABSENT:

None



GUEST LEGISLATORS PRESENT:

Assemblyman Skip Daly, Washoe County Assembly District No. 31
Assemblywoman Marilyn K. Kirkpatrick, Clark County Assembly
District No.1
Assemblyman William C. Horne, Clark County Assembly District No. 34

STAFF MEMBERS PRESENT:

Dave Ziegler, Committee Policy Analyst
Brad Wilkinson, Committee Counsel
Dianne Harvey, Committee Secretary
Colter Thomas, Committee Assistant

OTHERS PRESENT:

P. Michael Murphy, representing Clark County
Earl Mitchell, Constable, Henderson Township Constable's Office
John Bonaventura, Constable, Las Vegas Township Constable's Office
Dean Lauer, Deputy Chief, Las Vegas Township Constable's Office
Sharon Graziano, Administrator, Las Vegas Township Constable's Office
James Kimsey, Private Citizen, Las Vegas, Nevada
Bryan Cornell, Captain, Las Vegas Township Constable's Office
Tim Waller, Deputy, Las Vegas Township Constable's Office
Herb Brown, Constable, North Las Vegas Township Constable's Office
Hadi Sadjadi, Deputy, Las Vegas Township Constable's Office
Jason Watkins, Deputy, Las Vegas Township Constable's Office
Garrett Gordon, representing the Olympia Companies

Chairman Frierson:

[Roll was called and protocol was reviewed.] This is obviously a busy and important day. We have a large agenda and we will get through it. We have three bills on the agenda. We are doing something unconventional with respect to Assembly Bill 184 and Assembly Bill 367. I am opening a hearing on both of them and I ask Mr. Daly and Mr. Duncan to address those bills.

Assembly Bill 184: Revises provisions governing construction defects.
(BDR 3-649)

Assembly Bill 367: Revises provisions relating to constructional defects.
(BDR 3-670)

Assemblyman Skip Daly, Washoe County Assembly District No. 31:

Assembly Bill 367 and Assembly Bill 184 both relate to construction defects. Assembly Bill 367 primarily focuses on indemnification and gives a definition of a controlling party. I will not use the term indemnification again; I will call it a "hold harmless." I will yield the floor to Mr. Duncan.

Assemblyman Wesley Duncan, Clark County Assembly District No. 37:

I want to echo Mr. Daly's comments. My bill, Assembly Bill 184, also deals with construction defects. Mainly it deals with the definition of defects. It deals with the attorney's fees, statute of repose, and there is an affidavit section. Mr. Daly and I have been having some conversations about this issue and we would like to work in a bipartisan fashion to try to obtain a fix in this area. We have reached out to all of the parties and we would like to keep these measures alive so we can continue to have some good, substantive conversations. I have nothing else to add unless there are questions.

Chairman Frierson:

Thank you, Mr. Daly and Mr. Duncan. It is my understanding there has been a fiscal note attached to both measures, and because you are working together on this, I think it would be instrumental how the measures move forward together. Before we get into the substance of it, considering the level of the discussion going on, it would be in our best interest to refer this to Ways and Means. In the interest of time and efficiency, I seek a motion to refer these bills to Ways and Means with no recommendation.

ASSEMBLYMAN HANSEN MOVED TO REREFER ASSEMBLY BILL 184 AND ASSEMBLY BILL 367 TO THE COMMITTEE ON WAYS AND MEANS WITH NO RECOMMENDATION.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

[Exhibits submitted but not discussed: ([Exhibit C](#)), ([Exhibit D](#)), ([Exhibit E](#)), ([Exhibit F](#)), ([Exhibit G](#)), ([Exhibit H](#)), ([Exhibit I](#)), ([Exhibit J](#)), ([Exhibit K](#)), and ([Exhibit L](#)).]

Assembly Bill 223 is next on our agenda. I invite Assemblywoman Kirkpatrick to introduce the bill.

Assembly Bill 223: Revises provisions governing constables. (BDR 3-15)

Assemblywoman Marilyn K. Kirkpatrick, Clark County Assembly District No. 1:

I come before you today with Assembly Bill 223. I started looking at the constable's office as a whole because we have had discussions for the last couple of sessions. We have noticed the language is very convoluted, and there are pieces that were in different parts of the bill. I wanted to go through and clean up the language for the constable's office. You should have an amendment in front of you ([Exhibit M](#)). The constable's offices are different across the nation as well as within our state. Washoe County works differently than Clark County. Clark County wanted to clarify this because they work out of an enterprise fund.

Section 8 of the bill authorizes county commissioners to penalize constables who fail to file a report or any other documentation with the county or the Nevada Commission on Peace Officers' Standards and Training (POST). In the past, there has been some discussion whether the constable's office had to file those reports. I want to make it very clear that, yes, you do have to file those reports, and you do work with the county. When I received many complaints about the constable's office, I called throughout the state and no one seemed to know whose jurisdiction it was to oversee the constable's office. This makes it clear that it is the county commission.

Section 9 of the bill requires the oath of the constable to be filed and recorded in the office of the county recorder. That is important because we did not have any of that information on file for a long time. I think people should be able to see that the necessary paperwork was done.

Section 10 requires the deputy constables to be certified by POST as a category II peace officer prior to commencement of employment of a deputy constable. It also requires all deputy appointments to be filled and to be recorded within 30 days after the appointment. There has been some discrepancy about whether that should happen. I believe it to be in the best interest of the public that it does happen, so I clarified it.

Section 11 of the bill authorizes the constable to appoint clerical and operational staff subject to the approval of the county commissioners. It also requires the county commissioners to fix clerical and operational staff compensation rates. It further provides that the clerical and operational staff do not have the powers of peace officers and may not possess a weapon or carry a concealed firearm while performing the duties of the constable. That is most important because the employees that work for the constable's office are county employees; however, there are a lot of others coming in who are not necessarily county

employees, and they came in under one scenario and may actually be doing something different. There needed to be some certainty for the county employees as to who their boss is, and what their responsibilities are. Operational includes different functions of the constable's office, but the county commission should be able to oversee those because, as taxpayers, we are paying those bills.

Section 14 of the bill requires the deputy constables in counties other than Clark County to be certified by the Commission within one year of the date that the deputy constable commenced employment, regardless of the separation. That was looked at in 2007. We put that in because the rules have a different mechanism on how they get POST-certified. I think that should stay so we can make sure that the rules give the constable the ability to do his job.

Sections 12, 15, and 16 establish that the constable may only issue vehicle citations if the vehicle is located within the constable's township at the time of the citation. This is a big issue in Clark County. I met with all of the constables specifically to talk about the issue on citations and parking tickets. There have been many snowbirds who own a place in Clark County. They come here for the winter months. They had out-of-state license plates because they spent the rest of the time in another state. They were Nevada residents as far as paying property tax. We had trouble across the board with all constables because in 2009 the Legislature gave the constables the ability to collect a \$100 fee on everyone who was not registered in the state. That is an unintended consequence of the Legislature giving our power away because kids at the college were being ticketed for having out-of-state plates when they were here going to school. We like those out-of-state students because they pay a bit higher tuition and we want them to be here. Consistent with every other state, out-of-state students do not have to register their vehicles. We found that constables were going to apartment complexes and ticketing everyone. They were putting a yellow sticker on the car saying that if they did not pay this \$100, they would be fined. That was not the intent of the legislation when passed. I want to clarify at this time that people need to stay in their own swimming lanes.

The public does get frustrated when they see a lot of out-of-state license plates, but we do have laws on the books that are consistent with other states that should be reckoned with. One is if out-of-state students register their vehicle in this state, then they lose their scholarship. That is not what we want to do. We do have some seasonal employees that come here; these are not the people we want to focus on, so this clarifies it. I will say I worked with the constables and it has been much better, but we had to get an attorney general's opinion. That is when we were unable to determine the oversight person.

There is one outstanding issue on whether the constable should be POST-certified. My concern is that I want to be sure a person does not have to be POST-certified in order to run for the office because that would be very hard. I believe in our smaller rural areas such as Sandy Valley, Laughlin, and Mesquite, it would be much harder to find someone who is POST-certified. I left that out of my bill but, if there is a mechanism, as they told me there is this morning, that anyone can get POST-certified, self-sponsored, I am willing to consider it. With that, I stand for questions.

Chairman Frierson:

Do I have any questions from the Committee?

Assemblyman Wheeler:

In section 11, subsection 2, paragraphs (a) and (b), referencing the clerical and operational staff, I can see how under normal duties they would not have a need to carry a weapon. However, the bill says, "regardless of whether the person possesses a permit to carry a concealed firearm" I am wondering why you would deny someone their right to defend themselves with their own concealed firearm. They are already trained, they already have their permit, and they have gone through all of the hoops. It bothers me.

Assemblywoman Kirkpatrick:

The concern is that people were coming in under one presence and then doing something different. They were being hired as a clerk and then going out and issuing tickets, and doing sporadic things, so this was just to clarify. In my mind, it means they can only do the operational job that they were given. I would like to give an example. We have one person that comes in as the public information officer, carries a firearm, but goes to the town board meetings and brings the weapon. He cannot walk into any library because people get nervous. If you are going to be hired to work in clerical or operational, that should be your primary duty. That was the clarification. I am a National Rifle Association supporter myself, but there has to come a point where your job is supposed to be your job, and you cannot have both.

Assemblyman Hansen:

This is only while performing the duties of the office of constable. It does not take away their right. Just in this particular instance, for public safety reasons, you do not want them packing hardware. I want to get that on the record.

Chairman Frierson:

Are there any other questions from the Committee? I see none.

I know that you have been working hard on this bill and I was happy to accommodate you by putting it on the agenda for today.

Assemblywoman Kirkpatrick:

We are closing some budgets in the Committee on Ways and Means and I have to leave, so let me know the status of the bill.

Chairman Frierson:

Before you leave, are you aware of any proposed amendments?

Assemblywoman Kirkpatrick:

I will tell you I worked with some folks ahead of time about amendments, and I did work with them on the final amendment ([Exhibit M](#)) knowing that the bill has to amend and do pass out today, with the one exception of the POST-certification. I will address that at another point when I feel more comfortable with it.

Chairman Frierson:

Seeing no other questions for Assemblywoman Kirkpatrick, I now invite those here to testify in support of Assembly Bill 223 to please come forward.

P. Michael Murphy, representing Clark County:

We would like to thank Assemblywoman Kirkpatrick for her work, and we support A.B. 223. We feel this provides appropriate accountability and responsibility for the offices, and we respectfully ask you for your support. I will answer any questions you may have.

Chairman Frierson:

Thank you. Are there any questions that the Committee has of Mr. Murphy? I see none.

Earl Mitchell, Constable, Henderson Township Constable's Office:

I have worked with Assemblywoman Kirkpatrick on this bill. I come out in support of the bill with amendments and the proposed amendment that she will address later. Thank you. I will answer any questions.

Chairman Frierson:

I appreciate your persistence. We have not had a chance to have that meeting, but I know you kept trying. As we approached today, things got really busy. Probably many people in the room are in the same situation.

Earl Mitchell:

I understand.

Chairman Frierson:

Are there any questions from the Committee? I see none. Thank you very much.

Is there anyone else in Carson City who wishes to offer testimony in support? [There was no one.] We will go down to Las Vegas and ask the people there to introduce themselves and present any support they have for the bill.

John Bonaventura, Constable, Las Vegas Township Constable's Office:

We are in support of this bill 100 percent. My organization has looked over it. We are not familiar with the amendments, but everything is good from what I hear. We are definitely in support of this bill. It addresses many of the issues we have been fighting for during the last two years, including the jurisdictional issue that constables should stay in their own townships and the filings of the quarterly reports. I sent a letter ([Exhibit N](#)) which I will not read for time's sake. There is an attachment showing what the financial reports should look like. We have already filed ours on time. I will now turn it over to Deputy Chief Dean Lauer.

Dean Lauer, Deputy Chief, Las Vegas Township Constable's Office:

Speaking for the rank and file of the Las Vegas Township Constables, everyone supports this bill and feels it clears up some of the language that is somewhat outdated and vague as to certain issues. We are 100 percent in support of this bill.

John Bonaventura:

For the record, we want to commend Assemblywoman Kirkpatrick for all the good work she has done into putting out such a good bill.

Sharon Graziano, Administrator, Las Vegas Township Constable's Office:

I am the administrator for the Las Vegas Township Constable's Office. I am in total support of this bill. Thank you very much.

Chairman Frierson:

Are there any questions from the Committee? I see none. Is there anyone else in Las Vegas wishing to offer testimony in support of Assembly Bill 223?

James Kimsey, Private Citizen, Las Vegas, Nevada:

I am speaking in support of Assembly Bill 223. I have only one concern that I would like to ask a question of the Chairman. There were references from Assemblywoman Kirkpatrick and from Constable Mitchell about another amendment that is pending. What would that amendment be? Again, I am voicing my support for A.B. 223 as it now stands. Thank you.

Chairman Frierson:

Feel free to contact Assemblywoman Kirkpatrick, the sponsor of the bill, and talk to her directly if you have questions about her plans for amendments, or you can certainly monitor the bill as amendments are developed.

Bryan Cornell, Captain, Las Vegas Township Constable's Office:

I want to show my support for this bill that was put forth by Assemblywoman Kirkpatrick.

Tim Waller, Deputy, Las Vegas Township Constable's Office:

I am definitely in support of this bill. This is a good bill and it is long overdue. Thank you.

Chairman Frierson:

Are there any questions from the Committee? I see none. Is there anyone else in Las Vegas wishing to offer testimony in support?

Herb Brown, Constable, North Las Vegas Township Constable's Office:

I am in full support of the bill and I think it is a very good one.

Hadi Sadjadi, Deputy, Las Vegas Township Constable's Office:

I am here to proclaim my unequivocal support of Assembly Bill 223. Thank you for your time.

Jason Watkins, Deputy, Las Vegas Township Constable's Office:

Are we talking about the new amendment mock-up, or are we talking about the bill as introduced?

Chairman Frierson:

If you have a question about the bill, you need to contact the sponsor of the bill. The process facilitates us asking questions of witnesses, so we can make some informed decisions. If you have some questions about the bill itself, I would direct you to contact the sponsor of the bill about her intentions. We are considering the bill as it was presented with the mock-up, and she has indicated an intention to consider additional amendments working with stakeholders. If you want to a part of that, I would encourage you to contact Assemblywoman Kirkpatrick's office.

Jason Watkins:

I am in support of the bill. Thank you.

Chairman Frierson:

Are there any questions from the Committee? I see none. Is there anyone else in Las Vegas wanting to offer testimony in support of this bill? [There was no one.] Is there anyone in Carson City wishing to offer testimony in opposition to Assembly Bill 223? [There was no one.] Is there anyone in Las Vegas wishing to offer opposition? [There was no one.] Is there anyone in either Carson City or Las Vegas wishing to offer testimony in the neutral position? [There was no one.]

I will entertain a motion to amend and do pass Assembly Bill 223.

ASSEMBLYMAN OHRENSCHALL MOVED TO AMEND AND DO PASS ASSEMBLY BILL 223.

ASSEMBLYWOMAN DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assemblywoman Kirkpatrick will handle her bill on the floor.

[Exhibit submitted but not discussed: ([Exhibit O](#)).]

We will now be moving on to our work session. We have several items today, not all of which will be worked. Assembly Bill 234 and Assembly Bill 219 will not be worked today.

Assembly Bill 234: Revises provisions relating to firearms. (BDR 15-915)

[This bill was not worked ([Exhibit P](#)).]

Assembly Bill 219: Revises provisions governing the award of damages to persons who suffer personal injury. (BDR 3-753)

[This bill was not worked ([Exhibit Q](#)).]

With respect to Assembly Bill 219, we have received a tremendous amount of input and concerns on this bill in many different directions. We are not working that bill up, as it is the position of the Chairman that the provisions contained in A.B. 219 are the current practice of the law anyway. It is case law and rules of evidence that I believe embrace the collateral source rule, and I do not want this Committee's act of not moving this bill today to be construed as legislative intent to contradict the collateral source rule in any way. It is our understanding that the collateral source rule is the rule in Nevada. We reserve the opportunity

to address it if it is ever construed otherwise to clarify that the collateral source rule is the rule in Nevada. For those and several other reasons, we are not going to move Assembly Bill 219, but in the event anyone has any questions about legislative intent, there will not be a blank in there and there will at least be a statement by the Chairman that this is not in any way an effort to question the collateral source rule. If that, in legal development, becomes an issue and is something we choose to address, we reserve that opportunity. I make it clear to the Committee that if that is the case at some point, as a legislator, regardless if I am in this position, it would be my intention to make that clear. That being said, we are not working up Assembly Bill 219 today.

We will move on to the remainder of our work session. For the most part, we will go in order. We will start the work session with Assembly Bill 98.

Assembly Bill 98: Revises various provisions relating to common-interest communities. (BDR 10-488)

Dave Ziegler, Committee Policy Analyst:

I am nonpartisan legislative staff, not advocating for or against any legislation. Assembly Bill 98 and documents related to this item in work session are posted on Nevada Electronic Legislative Information System and paper copies are available by the door.

Assembly Bill 98 relates to common-interest communities and homeowners' associations (HOA) and amends the statutes regarding executive board elections, HOA projects, and HOA financial statements. [Continued reading from ([Exhibit R](#)).]

This measure was considered in the Subcommittee on Judiciary which recommended a motion to amend and do pass with an amendment provided by the sponsor, and with an additional conceptual amendment that was proposed by Assemblyman Martin providing that financial statements of HOAs with an annual budget less than \$150,000 must be reviewed by a certified public accountant every fiscal year, and audited only upon a written request from 51 percent of the voting members.

Regarding the amendment provided to the Subcommittee and which you have in front of you, I believe there has been a suggestion this morning that section 4 of the mock-up, which is titled Proposed Amendment 7996 to A.B. 98, dated April 5, be stricken from the amendment.

Chairman Frierson:

I want to thank the Subcommittee for their hard and efficient work in screening measures so we can have discussions on the remaining measures.

With respect to Mr. Martin's conceptual amendment, Mr. Ziegler, would you clarify if that was something that came out with the Subcommittee recommendation, or was that something that was proposed afterward for the Committee's consideration?

David Ziegler:

That amendment was discussed in Subcommittee at least once, if not twice, and was a part of the Subcommittee's motion.

Chairman Frierson:

Thank you very much. Are there any questions on the bill otherwise? It would be the Chairman's intention to entertain a motion to amend and do pass striking section 4. I have spoken with those who generated that language about the need to have a more thorough vetting of that issue. I am certainly not precluding consideration of it, but for the purposes of this process and to allow the measure to proceed with the intention of Mr. Aizley as was originally submitted, I would be entertaining a motion to amend and do pass without section 4.

ASSEMBLYWOMAN SPIEGEL MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 98.

ASSEMBLYMAN CARRILLO SECONDED THE MOTION.

Chairman Frierson:

Is there any discussion on the motion?

Assemblyman Duncan:

I am going to be a no on this with the right to change my vote. I had a lot of constituents reach out to me about section 4. I know we are now scrapping that section of the bill, but I do want to speak with my constituents about this. In many ways, I am wondering if some of the HOA legislation that comes before us is necessary. This bill is one of those bills that I have pause about, but I will reserve my right.

Assemblyman Wheeler:

I have a quick comment, Mr. Chairman, ditto.

Assemblywoman Fiore:

I concur with my colleagues. Ditto on that.

Chairman Frierson:

Are there any other questions or comments on the motion? [There were none.]

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

Mr. Aizley will handle the floor statement.

We will move on to Assembly Bill 207 which is Mr. Ohrenschall's bill.

Assembly Bill 207: Revises provisions relating to juveniles. (BDR 3-51)

Dave Ziegler, Committee Policy Analyst:

Assembly Bill 207, sponsored by Assemblyman Ohrenschall, was heard in this Committee on April 2. This bill relates to domestic violence and juvenile justice. The bill provides that a person under the age of 18 does not commit domestic violence unless the person commits assault, battery, sexual assault or one of the other specified acts. [Continued to read from ([Exhibit S](#)).] Mr. Chairman, I think it might be prudent to pass it off to the sponsor.

Assemblyman Ohrenschall:

We spent a lot of time with the different stakeholders. Yesterday I was in contact with the students at the University of Nevada, Las Vegas, William S. Boyd School of Law, Juvenile Justice Clinic and we came to a compromise. The language that is in everyone's work session packet would be added to Chapter 62, not to Chapter 3. Section 2 would remain unchanged. We are giving discretion to the prosecutor in a proceeding against a juvenile. That is something I think all parties agreed was needed. We had many representatives from the groups that help victims of domestic violence; we had Mr. Jones from the district attorney's office, and constant conversations with the Juvenile Justice Clinic. I think we arrived at a good compromise and, hopefully, this will address some of the problems. I will be happy to answer any questions.

Assemblyman Hansen:

From my notes on the hearing, I know law enforcement people were concerned about it. Are they on board with the amendment?

Assemblyman Ohrenschall:

I sure hope so.

Assemblyman Hansen:

I see thumbs up from the audience. Thank you.

Chairman Frierson:

Please correct me if I am wrong. This is post-law enforcement involvement, so I think the discussion at the hearing was surrounding whether officers had discretion. This conceptual amendment actually does not change that at all and deals with the actual prosecution of the case.

Assemblyman Ohrenschall:

That is correct. This would not affect the arresting statute; it would not affect an officer's decision whether he was going to take that juvenile to either an adult jail or a juvenile detention facility. It would be a grant by the Legislature of more discretion to prosecutors who are looking at that juvenile and deciding what they are going to charge.

Chairman Frierson:

Are there any other questions on the measure? [There were none.]

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

ASSEMBLYWOMAN DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

We will move on to Assembly Bill 248.

Assembly Bill 248: Revises provisions relating to certain criminal offenses involving vehicles. (BDR 43-616)

Dave Ziegler, Committee Policy Analyst:

The next bill is Assembly Bill 248, sponsored by Assemblywoman Fiore and heard in this Committee April 11, 2013. Assembly Bill 248 relates to public safety, motor vehicles, and related subjects. The bill provides that violations of Nevada's laws on driver's licenses, motor vehicles and trailers, motor vehicle insurance, motorcycles, rules of the road, and traffic laws must be treated as a civil matter, punishable by civil penalty, unless the *Nevada Revised Statutes* specifically makes them a misdemeanor, gross misdemeanor, or felony.

The sponsor and the Chairman have discussed a conceptual amendment and the sponsor would like to propose this conceptual amendment, which is attached ([Exhibit T](#)). I will walk you through it.

The amendment replaces the bill as introduced. The first section creates a new subcommittee of the Advisory Commission on the Administration of Justice (ACAJ) to study this issue. The scope of work of the subcommittee is in subsection 4. The subcommittee would consider issues relating to existing laws of this state concerning traffic violations, the related laws of other states, the appropriate and necessary elements of a system to treat violations of such laws in this state as civil infractions, and the anticipated fiscal effects of such a system. The subcommittee shall report to the full Advisory Commission on the Administration of Justice.

There are already in statute two subcommittees of the ACAJ, and this language essentially mirrors the existing statutory language for those other subcommittees with this substitution of this scope of work.

Section 2 simply adds a general statement about this topic to the scope of work of the ACAJ so that it is clear that this is within the scope of the ACAJ.

Section 3 sets some deadlines. It requires the subcommittee to report to the full Commission at least 30 days before the full Commission's last meeting of the next interim. It requires the full Commission to consider the recommendations of the subcommittee at their last meeting.

Finally, section 4 is a sunset provision. It sunsets all of this on July 31, 2015, the idea being that if the subcommittee has finished its work, it would just sunset. If the subcommittee needs to stay in place, the Legislature could revisit that next session.

Chairman Frierson:

Thank you, Mr. Ziegler, and thank you, Ms. Fiore, for all of your hard work on this issue. I think that everyone seemed to uniformly agree with the need to address this. The only issue was how to facilitate making it happen officially. I certainly appreciate your work and ultimately referring this with a timeline for us to deal with. Are there any questions on the bill? [There were none.]

ASSEMBLYMAN WHEELER MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 248.

ASSEMBLYWOMAN DIAZ SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Ms. Fiore, you will handle the floor statement.

Next on the work session agenda is Assembly Bill 313.

Assembly Bill 313: Prohibits the installation or use of a pen register, trap and trace device or mobile tracking device without a court order in certain circumstances. (BDR 14-421)

Dave Ziegler, Committee Policy Analyst:

Assembly Bill 313, sponsored by Assemblywoman Pierce, was heard in this Committee on March 26. The bill relates to criminal procedures and criminal investigations. The bill prohibits installation or use of a pen register, trap and trace device, or mobile tracking device without a court order, and authorizes an investigative or law enforcement officer to apply to district court for a court order or extension. [Continued reading from ([Exhibit U](#)).]

Two amendments have been proposed. The first one in the packet is a Legal mock-up with the number 7959, dated April 4. The second amendment is from the Las Vegas Metropolitan Police Department (Metro) dated April 11. I believe it is fair to say they are competing amendments; it would be one or the other, but probably not both. In the Legal mock-up, there has been a suggestion to strike lines 17 and 18. That would remove the provision in the mock-up that a person who knowingly violates what this mock-up is proposing to do would be guilty of a gross misdemeanor. The reason is this applies to law enforcement officers and it may not be necessary to expose a law enforcement officer to a gross misdemeanor.

Chairman Frierson:

Are there any questions on the bill?

Assemblyman Wheeler:

I think I can support this bill with the amendment from Metro, but not with the other one.

Assemblyman Duncan:

I would fully support this bill with the amendment from Metro, but not otherwise.

Chairman Frierson:

Are there any other questions or comments?

Assemblywoman Fiore:

I am going to vote yes on this bill but reserve the right to vote no on the floor. I want to be sure that we clarify these amendments.

Chairman Frierson:

Are there any other questions or comments?

ASSEMBLYWOMAN SPIEGEL MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 313.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

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

Ms. Pierce will handle the floor statement.

Next on our work session is Assembly Bill 320, which is another common-interest community bill that came out of the Subcommittee.

**Assembly Bill 320: Revises provisions governing common-interest communities.
(BDR 10-737)**

Dave Ziegler, Committee Policy Analyst:

Assembly Bill 320 was sponsored by Assemblyman Stewart and heard in the Subcommittee on March 27, 2013 and April 8, 2013. Assembly Bill 320 relates to common-interest communities (CIC), the duties of the ombudsman for owners in common-interest communities and condominium hotels, and the procedure for resolving alleged breaches of the governing documents of a homeowners' association (HOA). The bill requires the Ombudsman to investigate disputes involving the provisions of Chapter 116 and 116B of the *Nevada Revised Statutes* or the governing documents of an HOA. It also requires the ombudsman to compile, for each HOA, a record of each settlement of a claim and each judgment in an action for a constructional defect. [Continued to read from ([Exhibit V](#)).]

The Subcommittee recommended a motion to amend and do pass with amendments that were provided by Garrett Gordon. They are available on NELIS and are self-explanatory. Section 1 deals with the duties of the ombudsman. Section 2 extends the time for filing an affidavit with the Real Estate Division. Section 3 relates to something known as the declarant's period of control having to do with executive boards of homeowners' associations.

Chairman Frierson:

The vague portion of the bill dealing with declarant's control is essentially the developer's control over the common-interest community until they hand it over

after sufficient homes have been built, purchased, and occupied. This came out of the Subcommittee unanimously. Are there any questions on the bill?

Assemblywoman Diaz:

Are both amendments friendly to the sponsor?

Dave Ziegler:

The Subcommittee recommended the amendment from Garrett Gordon and did not recommend the amendment from Jonathan Friedrich. I am sorry the paperwork did not catch up to the flow of the process.

Chairman Frierson:

I believe at some point we were under the impression what was ultimately submitted as an amendment was agreed upon. Was it an issue of timing and submission?

Garrett Gordon, representing the Olympia Companies:

The amendment that is in your work session document is a compromise and includes amendments from myself and from Mr. Friedrich. It was a compromise between both of us. If you can believe it, we both supported this compromise.

Chairman Frierson:

While I have you up here, in section 1, line 21 in the amendment, are the words "When appropriate, investigate" stricken, and the word "investigate" inserted?

Garrett Gordon:

That is correct.

Chairman Frierson:

Therefore, paragraph (d) would read, "investigate disputes," et cetera?

Garrett Gordon:

That is correct.

Assemblywoman Dondero Loop:

Is that consistent throughout the amendment? Every time there is red parenthesis, those are stricken, and the words in purple are the accurate words?

Garrett Gordon:

Yes, that is correct.

Chairman Frierson:

Thank you, Mr. Gordon. Are there any other comments or questions on the bill?

Assemblyman Duncan:

I think this may potentially keep the ombudsman very busy, but I will be voting yes on the bill. I do appreciate that people were able to get together and work something out.

Garrett Gordon:

I would note that language on page 2, line 21, the issue came up at the Subcommittee whether that would add a fiscal note, given how the ombudsman would not only investigate when appropriate, but now needs to investigate. The sponsor wanted to make it clear in the Subcommittee, and I can again today, if there was any chance that new language would have a fiscal note, he was 100 percent comfortable going back to the original language of "when appropriate."

Chairman Frierson:

Thank you for that clarification, Mr. Gordon.

Are there any other questions or comments from the Committee? I see none. I will entertain a motion to amend and do pass with the amendment provided by Mr. Gordon.

ASSEMBLYMAN OHRENSCHALL MOVED TO AMEND AND DO
PASS ASSEMBLY BILL 320.

ASSEMBLYWOMAN DIAZ SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Mr. Stewart will be handling the floor statement.

Assembly Bill 332 is next on our agenda today.

Assembly Bill 332: Revises provisions relating to real property. (BDR 9-732)

Dave Ziegler, Committee Policy Analyst:

The bill relates to foreclosures on deeds of trust. The bill defines the term, "abandoned residential property," and authorizes the beneficiary of the deed of trust to elect to employ the following procedures at any time after a notice of default is recorded, if the beneficiary determines the property is abandoned. [Continued to read from ([Exhibit W](#)).]

Chairman Frierson:

Are there any questions on the bill? Ms. Spiegel, do you have any comments or any clarification that you wish to make?

Assemblywoman Spiegel:

I have been working with a large group on this. It consisted of stakeholders from Legal Aid Center of Southern Nevada, the banking community, as well as local government. We have reached consensus on this, but we are also continuing to work. We understand there are still some issues, and we would like to move this forward and continue working. With that, I respectfully request everyone's support for this bill. Thank you.

Assemblyman Ohrenschall:

I want to applaud my colleague from Henderson for working with all of the stakeholders, especially the people at Legal Aid. I did have some concerns with the bill. Most of them are addressed, but I still have a couple of concerns and will be voting yes, but reserving my right to change my vote on the floor.

Assemblyman Wheeler:

I know that the sponsor of the bill is working hard with the interested parties. I will vote yes to get it out of Committee, but reserve my right to change my vote on the floor. I just want it on the record.

Chairman Frierson:

I think Mr. Ohrenschall shares some of the same concerns, particularly about the criteria on page 3, section 2, subsection 1, paragraph (b), subparagraph (7) for some homes that are not in HOAs. Some of these conditions may exist in low-income communities. I know we have talked about it, and I continue to have a bit of concern about that. In section 3, subsection 2, and on page 6, section 2, subsection 5, it recognizes the interest and incentives for owner-occupied as opposed to investors. I know we have talked about that previously. I cosponsored a bill dealing with abandoned property, so I support the notion and want to continue the conversation. I will communicate with you to try to get my concerns resolved.

Assemblywoman Dondero Loop:

I also look forward to further information and conversation.

Assemblywoman Diaz:

I echo your concerns, and ditto.

Chairman Frierson:

Are there any other questions and thoughts on the bill?

I seek a motion to amend and do pass with the conceptual amendments provided by Ms. Spiegel, and hopefully with the continued conversations.

ASSEMBLYMAN DUNCAN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 332.

ASSEMBLYMAN CARRILLO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Ms. Spiegel, the floor statement is yours.

The next item on our agenda is Assembly Bill 338.

Assembly Bill 338: Provides certain protections and services for victims of human trafficking. (BDR 16-679)

Dave Ziegler, committee Policy Analyst:

Assembly Bill 338, sponsored by Assemblyman Hambrick, was heard in this Committee on April 10. The bill relates to assistance of victims of crime. Among other provisions, the bill requires a law enforcement officer, a district attorney, or a deputy attorney general to make a preliminary assessment of a person who reasonably appears to be a victim of human trafficking, to determine whether the person may be eligible for state or federal compensation or assistance. [Continued to read from ([Exhibit X](#)).]

Chairman Frierson:

Are there any questions on the bill? Seeing none, I will entertain a motion to do pass.

ASSEMBLYWOMAN DIAZ MOVED TO DO PASS
ASSEMBLY BILL 338.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Mr. Hambrick will handle his bill on the floor.

Next on the agenda is Assembly Bill 423.

Assembly Bill 423: Revises provisions governing reports of presentence investigations. (BDR 14-741)

Dave Ziegler, Committee Policy Analyst:

Assembly Bill 423 was sponsored by this Committee on behalf of the Advisory Commission on the Administration of Justice. It was heard in this Committee on April 10.

Assembly Bill 423 relates to criminal procedure. The bill requires the Division of Parole and Probation to disclose the factual content of the presentence investigation report to the prosecuting attorney, the defendant, the defendant's attorney, and the court at least 21 days before sentencing, unless the defendant waives the minimum period. [Continued to read from ([Exhibit Y](#)).]

Chairman Frierson:

Are there any questions on the bill? Seeing none and there being no amendments, I will entertain a motion to do pass.

ASSEMBLYMAN OHRENSCHALL MOVED TO DO PASS
ASSEMBLY BILL 423.

ASSEMBLYWOMAN DIAZ SECONDED THE MOTION.

Chairman Frierson:

Is there any discussion on the motion?

Assemblyman Duncan:

I certainly understand the defense perspective on this in wanting to have more time to get documents. In the testimony, I was not sure how often this occurs, and if it is a rare circumstance. I know this is not a money committee, but there was a substantial fiscal note on it. I want to take some time to weigh it. I will be a yes out of the Committee.

Chairman Frierson:

I recall there being a little confusion about the fiscal note. I think it was impossible to tell about staff but then it was noted that at some point some staff may have to be doubled. I do recall being pleasantly surprised at the level of support across the board for the concept, other than the concern about the ability to accommodate depending on the number. In particular, Ms. Erikson's recollection of how important and productive it was when she was able to engage in it made quite an impression on me.

Assemblyman Wheeler:

I want to say much of what Assemblyman Duncan said. I will vote yes to get it out of Committee, but the fiscal note does concern me. I want to reserve my right to change my vote on the floor.

Chairman Frierson:

Of course the Committee on Ways and Means will take a look at all bills we pass and consider any bills that have a fiscal impact and whether they need to look deeper into that. This is a valid concern.

Are there any other questions or comments? [There were none.]

There being a motion and a second, we will now take a vote.

THE MOTION PASSED UNANIMOUSLY.

Mr. Ohrenschall will handle the floor statement.

Lastly, we have Assembly Bill 360.

Assembly Bill 360: Revises provisions relating to gaming. (BDR 41-24)

Dave Ziegler, Committee Policy Analyst:

Assembly Bill 360 is sponsored by Assemblyman Horne and it was heard in this Committee on April 8.

Assembly Bill 360 relates to licensing and control of gaming. The bill establishes conditions for a license to operate 15 or fewer slot machines at a bar, tavern, saloon, or other establishment licensed to sell alcohol by the drink for consumption on the premises. The conditions include a minimum of 2,500 square feet of space available for use by patrons. [Continued to read from ([Exhibit Z](#)).]

You may recall on the day of the hearing, representatives of Cantor Gaming also proposed an amendment which was highly technical in nature. A copy has been provided on Nevada Electronic Legislative Information System of some language submitted by Lionel Sawyer & Collins ([Exhibit AA](#)) on that point. I have reviewed the testimony from the meeting on April 8, and I think staff has a handle on what is trying to be done. It is to make sure that Cantor Gaming's current business model, which they are now using and licensed to use, is not harmed by the amendment proposed by the Nevada Resort Association. The Cantor amendment is an amendment to an amendment. It is an amendment to the Nevada Resort Association amendment.

Chairman Frierson:

Mr. Horne, I want to make sure the Committee is certain which amendments are friendly and which are not.

Assemblyman William C. Horne, Clark County Assembly District No. 34:

The amendments you have before you as stated by Mr. Ziegler are correct and they are friendly amendments. The Cantor amendment addresses an oversight that will allow them to continue to do what they are already doing. These amendments which have been presented thus far came out of the group meeting I had with representatives from both sides speaking about proposed amendments to the bill. These are the ones I agreed to, but we are also still negotiating further issues.

Chairman Frierson:

Thank you, Mr. Horne. I know there were discussions on other amendments, but the ones we have for consideration are the reflection of your effort to take into account those other stakeholders' concerns and still stay consistent with your intent of the bill?

Assemblyman Horne:

That is correct, Mr. Chairman.

Chairman Frierson:

Are there any questions from the Committee?

Assemblyman Wheeler:

Assemblyman Horne, thank you for coming again today. As we spoke last night, is the kiosk language still in the bill?

Assemblyman Horne:

Yes, the kiosk language is still there. That was the initial amendment which was placed by the Nevada Resort Association. It mirrors language in a similar bill, Senate Bill 416.

Assemblyman Wheeler:

As we discussed, I cannot support the bill when we start telling people what kind of machines they can have. I can see how we have a limit on them, but I am afraid I am unable to support it when we start telling them you can have this machine, but not that machine.

Chairman Frierson:

Are there any other questions or comments?

Assemblyman Duncan:

I know that you worked with many stakeholders and devoted a lot of time to this. From my perspective, I do not see the clamor from the Gaming Control Board or the Gaming Commission that this body needs to act at this time.

We may need to in the future. It was compelling to me on the Senate side that they said they believe they have the regulations and the laws in place to make a judgment call on these right now. It is my position that the Legislature should not step in at this time, so that is why I will be a no.

Assemblyman Horne:

Just for clarity, and not to argue with you, Mr. Duncan, I believe while the Gaming Control Board and the Gaming Commission feel that currently regulation exists for them to handle these matters, I think it is sometimes incumbent and prudent upon our body to look forward and address an issue that may be even bigger later. It is like nipping it in the bud. The Gaming Control Board and the Gaming Commission did not say that we should not act now. They said with what they have now, they can deal with what is going on presently. This is an attempt to anticipate the growth and where it is going.

Assemblyman Martin:

With all of the amendments, can you clarify what, if any, taxation issues might exist? As I recall from reading the bill and the amendments, if there is a certain number of machines in aggregate, and if that number is exceeded, then there are taxation considerations. What is your proposal on that in your final analysis of this?

Assemblyman Horne:

That provision in the initial hearing was 500 machines or more in the aggregate. It would be taxed at the same rate as the nonrestrictive gaming properties. There are six businesses that fall into that universe, and those six businesses take 60 percent of that market share in slot gaming for the restricted gaming properties. Currently, that is still in there and is one of the issues the other parties and I are still discussing right now going forth.

Chairman Frierson:

Are there any other comments or questions? I see none. I will entertain a motion to amend and do pass.

ASSEMBLYWOMAN SPIEGEL MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 360.

ASSEMBLYWOMAN COHEN SECONDED THE MOTION.

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

Mr. Horne will handle the floor statement. With that, I will move to public comment.

Assemblyman Wheeler:

I see we are joined today by Ms. Amanda Collins again. In order to keep her from telling her story over and over again every two years, I would like the Chairman to entertain a motion to put Assembly Bill 143 on the work session for today, please.

Chairman Frierson:

Under Assembly standing rules, it is the privilege of the Chairman to schedule bills and Assembly Bill 143 was not scheduled for many reasons. I think the sponsor of the bill, Assemblywoman Fiore, was made aware of the status of that by others in addition to me. That bill is not on the agenda and is not subject to any motion with respect to the bill.

I see no one for public comment either here or in Las Vegas. Given today's deadline, I will now recess the Assembly Committee on Judiciary and we will adjourn at some point today. With that, we are now in recess [at 10:12 a.m.].

[Meeting was reconvened at 12:00 p.m. behind the bar of the Assembly.]

Chairman Frierson:

I will entertain a motion to reconsider Assembly Bill 184.

Assembly Bill 184: Revises provisions governing construction defects.
(BDR 3-649)

ASSEMBLYMAN OHRENSCHALL MOVED TO RECONSIDER
ASSEMBLY BILL 184.

ASSEMBLYWOMAN FIORE SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN DIAZ AND HANSEN
WERE ABSENT FOR THE VOTE.)

Chairman Frierson:

I will entertain a motion to amend and do pass Assembly Bill 184.

ASSEMBLYMAN OHRENSCHALL MOVED TO AMEND AND DO PASS ASSEMBLY BILL 184.

ASSEMBLYMAN WHEELER SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN DIAZ AND HANSEN WERE ABSENT FOR THE VOTE.)

Chairman Frierson:

I will entertain a motion to reconsider Assembly Bill 332.

Assembly Bill 332: Revises provisions relating to real property. (BDR 9-732)

ASSEMBLYMAN OHRENSCHALL MOVED TO RECONSIDER ASSEMBLY BILL 332.

ASSEMBLYWOMAN FIORE SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN DIAZ AND HANSEN WERE ABSENT FOR THE VOTE.)

Chairman Frierson:

I will entertain a motion to amend and do pass Assembly Bill 332.

ASSEMBLYMAN DUNCAN MOVED TO AMEND AND DO PASS ASSEMBLY BILL 332.

ASSEMBLYMAN CARRILLO SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN DIAZ AND HANSEN WERE ABSENT FOR THE VOTE.)

Chairman Frierson and Assemblyman Ohrenschall reserved their right to change their vote on the floor.

Chairman Frierson:

I will entertain a motion to reconsider Assembly Bill 367.

Assembly Bill 367: Revises provisions relating to constructional defects. (BDR 3-670)

ASSEMBLYMAN OHRENSCHALL MOVED TO RECONSIDER
ASSEMBLY BILL 367.

ASSEMBLYWOMAN FIORE SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN DIAZ AND HANSEN
WERE ABSENT FOR THE VOTE.)

Chairman Frierson:

I will entertain a motion to amend and do pass Assembly Bill 367.

ASSEMBLYMAN OHRENSCHALL MOVED TO AMEND AND DO
PASS ASSEMBLY BILL 367.

ASSEMBLYMAN WHEELER SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN DIAZ AND HANSEN
WERE ABSENT FOR THE VOTE.)

The meeting was adjourned behind the bar of the Assembly [at 12:03 p.m.].

RESPECTFULLY SUBMITTED:

Dianne Harvey
Committee Secretary

APPROVED BY:

Assemblyman Jason Frierson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: April 12, 2013

Time of Meeting: 8:48 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 184	C	Joshua Hicks	Coalition for Fairness in Construction
A.B. 184	D	Joshua Hicks	The Nevada Housing Market
A.B. 184	E	Joshua Hicks	Case Studies
A.B. 184	F	Joshua Hicks	Timeline of Events
A.B. 184	G	Joshua Hicks	Solicitation Letters
A.B. 184	H	Joshua Hicks	Chapter 40 Notices
A.B. 184	I	Joshua Hicks	Nevada Builders Letters
A.B. 184	J	Joshua Hicks	Coalition for Fairness in Construction
A.B. 184	K	Assemblywoman Marilyn Kirkpatrick, Clark County Assembly District No. 1	Amendment
A.B. 367	L	Assemblywoman Marilyn Kirkpatrick	Amendment
A.B. 223	M	Assemblywoman Marilyn Kirkpatrick	Amendment
A.B. 223	N	John Bonaventura	Letter
A.B. 223	O	Louis Csoka	Letter
A.B. 234	P	Dave Ziegler	Work Session Document

A.B. 219	Q	Dave Ziegler	Work Session Document
A.B. 98	R	Dave Ziegler	Work Session Document
A.B. 207	S	Dave Ziegler	Work Session Document
A.B. 248	T	Dave Ziegler	Work Session Document
A.B. 313	U	Dave Ziegler	Work Session Document
A.B. 320	V	Dave Ziegler	Work Session Document
A.B. 332	W	Dave Ziegler	Work Session Document
A.B. 338	X	Dave Ziegler	Work Session Document
A.B. 423	Y	Dave Ziegler	Work Session Document
A.B. 360	Z	Dave Ziegler	Work Session Document
A.B. 360	AA	Lionel Sawyer & Collins	Amendment