

ASSEMBLY COMMITTEE ON JUDICIARY - 56TH SESSION, 1971

MEETING MARCH 22, 1971

The meeting was called to order at 3:30 p.m. Present: Miss Foote, Messrs. Fry, Lowman, Kean, Olsen, May, McKissick, Dreyer, and Torvinen. None absent.

AB 464 - Permits use of case number in matters filed by district court clerks and makes filing of certain matters permissive.

MR. ALEX COON, Fiscal Officers Association, stated the bill would allow for numerical filing to allow data processing and microfilming. He emphasized that the bill was not to encourage secret filings of court cases. Mr. Coon distributed an amendment to the committee, a copy of which is attached to these minutes, which his organization endorsed. He stated it is based on similar California law.

MRS. LORETTA BOWMAN, CLARK COUNTY CLERK, stated she wanted it made clear that the bill was not to encourage secrecy in filing of documents with county clerks. She said the bill would aid in the counties' bookkeeping systems and would enable the clerks to take advantage of data processing.

Mr. Kean asked how a person could find a case if he didn't know the case number. Mrs. Bowman stated the cases would be cross-referenced by names of plaintiff and defendant and respective counsel.

AB 297 - Provides for contracting limits on contractors' licenses and regulates fees.

ASSEMBLYMAN MARY FRAZZINI, sponsor of the legislation, stated that although she was having a problem getting an amendment with an adequate formula in the bill, the intent was to see that the public was protected from faulty building by contractors. She stated that bonding companies had promised to come up with proper wording for the rate schedules.

GEORGE VARGAS, ESQ. stated that on page 3, line 36 through page 4, line 7, there were difficulties in the bill in that it would eliminate requirements of the present law involving a contractor's bond. He was sympathetic with Mrs. Frazzini's intent to protect the owner if a contractor performed a faulty contract, but said the bill is not workable. He stated that from a surety standpoint a bond would have to be obtained for every contract. Some contractors have many projects going and there would be no limit to placing bonds.

ROBERT STOKER, SECRETARY, STATE CONTRACTORS BOARD, stated that license bonds are being confused with payment and performance bonds.

Mr. Fry asked if the board has the responsibility to see that the persons licensed by the board perform properly. Mr. Stoker said they are held responsible. He stated the bill is only a revenue measure.

Mrs. Frazzini repeated her question about the protection of the homeowner. Mr. Stoker replied that if the contractor has left the state, there is little that can be done. The license bond will not cover defective workmanship.

Mr. McKissick moved "Do Pass" AB 652. Seconded by Mr. Torvinen. Carried.

AB 607 - Prohibits elected state officers from ownership in businesses contracting with State.

Mr. Olsen explained the terms of the bill, stating the problem arose during the last election when a candidate for state office had participated in a contract involving the state. The new Attorney General issued an opinion stating there was no conflict of interest. This bill would clear up the statutes so there would be no question as to when there is a conflict. The State of California treats an interest as remote if there is less than 5% ownership, and states under that circumstances; there is no conflict. This bill sets forth the California statute, to set out necessary guidelines.

Mr. Kean questioned the meaning of "contract" and asked if it included sales to the State. Mr. Olsen replied he thought sales would be a contract.

AB 620 - Enacts new divorce and family law act.

MR. LINCOLN LING, CLARK COUNTY MENTAL HEALTH ASSOCIATION, spoke in favor of the bill, stating the legislative committee of the Mental Health Association had worked on the aspects of this bill, and the most important provisions are the creation of an atmosphere more conducive to reconciliation of the parties to divorce.

He stated that on page 8, lines 1-7, the wording should be changed to include not only an ordained minister, but any clergyman.

This would include the LDS Bishops and Jewish Rabbis. In the small counties where there are no marriage counselors, the bill should provide that the parties could consult a school counselor or school superintendent with training in counseling.

Mr. Ling presented a summary of states having the marriage counseling provisions. He stated the most impressive is the State of Wisconsin, where they have had this law since 1960. In a 1966 study, they found that with all the parties having filed for divorce, 49% effected a reconciliation as a result of this law. Only 15% of those had re-filed for divorce after reconciliation.

He summarized that a further factor to consider would be the ADC payments to children who are results of broken homes, which an ADC officer estimates to be 25% of ADC recipients. If a 40% reconciliation is effected, then of this 25% of recipients there would be a translation of over half a million dollars per year in savings in ADC payments, which could be used to increase payments to remaining recipients.

Mr. Torvinen observed that the Washington headquarters for the Office of Economic Opportunity through the Legal Aid Societies, required legal aid societies to obtain divorces for the mothers of dependent children before aid would be forthcoming.

Mr. Fry questioned the term "quasi-community property" on page 3, line 40. No one seemed able to interpret the term, and Mr. McKissick volunteered to research it.

Mr. Torvinen moved that SB 406 be amended to provide for a maximum of 20 years, and the committee recommend "Do Pass as Amended". Seconded by Mr. Dreyer. Carried.

Mr. May moved that AB 297 be indefinitely postponed. Seconded by Mr. Fry. Carried.

Mr. Dreyer moved that the action whereby AB 293 was indefinitely postponed be reconsidered. Seconded by Mr. May. After discussion, the motion to reconsider action lost.

Mr. Kean moved "Do Pass" SB 141. Seconded by Mr. Lowman. Carried.

Mr. Lowman moved "Do Pass" AB 253. Seconded by Mr. Dreyer. Carried.

Miss Foote moved "Do Pass" AB 471. Seconded by Mr. Lowman. The motion lost.

Mr. Dreyer moved that AB 464 be amended in accordance with Mr. Coon's proposal, and the committee recommend "Do Pass as Amended". Seconded by Mr. Fry. Carried.

Mr. May moved that AB 203 be re-referred to the Committee on Ways and Means. Seconded by Mr. Olsen. Carried.

Miss Foote moved "Do Pass" AB 688. Seconded by Mr. Kean. Carried, with Mr. Lowman abstaining.

Mr. Lowman moved "Do Pass" SB 407. Seconded by Mr. Olsen. Carried.

Mr. Kean moved "Do Pass as Amended" AB 483. Seconded by Mr. Dreyer. Mr. McKissick stated he would first like to compare the bill with SB 176 to see the reason for adding attachments in the bill. The motion carried.

Mr. McKissick moved that AB 588 be indefinitely postponed. Seconded by Mr. Dreyer. Carried.

Mr. Torvinen moved that AB 357 be indefinitely postponed. Seconded by Mr. Lowman. Carried.

Mr. McKissick moved that AB 595 be amended to state that upon satisfactory proof made by affidavit persons may be exempted from service as jurors, and the committee recommend "Do Pass as Amended". Seconded by Mr. Torvinen. The motion lost.

Mr. McKissick moved "Do Pass" AB 756. Seconded by Mr. Lowman. Mr. Torvinen moved that Mr. McKissick's motion be amended and that AB 756 be amended to strike Section 3, and the committee recommend "Do Pass as Amended". Seconded by Mr. Kean. Mr. Torvinen's motion carried, with Mr. May and Mr. Fry voting "No." They will file a minority report.

Mr. Kean moved that AB 544 be indefinitely postponed. Seconded by Mr. May. Carried.

Mr. Lowman moved that AB 516 be indefinitely postponed. Seconded by Mr. Dreyer. Carried.

Mr. Fry moved that AB 465 be indefinitely postponed. Seconded by Mr. Dreyer. Carried.

Mr. Lowman asked for committee introduction of a bill providing no action may be brought against a sheriff for acts done by his deputies. No action was taken.

There being no further business, meeting adjourned at 5:35 p.m.

sg

ASSEMBLY

AGENDA FOR COMMITTEE ON JUDICIARY

Date March 22 Time adjournment Room 240

<u>Bills or Resolutions to be considered</u>	<u>Subject</u>	<u>Counsel requested*</u>
AB 90	Gives school security officers status of peace officers.	
AB 203	Establishes probation subsidy program for youthful offenders.	
AB 208	Creates additional crimes involving explosives.	
AB 510	Includes certain personnel of the Nevada Gaming Commission, State Gaming Control Board, and Narcotic and Dangerous Drug Division as peace officers.	
AB 306	Regulates importing, manufacture, distribution and storage of explosives.	
AB 253	Redefines obscenity and other related terms.	
AB 297	Provides for contracting limits on contractors' licenses and regulates fees.	
AB 607	Prohibits elected state officers from ownership in business contracting with state.	
AB 652	Requires Lander County district attorney to serve as ex officio public administrator.	
SB 141	Makes sound recordings subject to obscenity laws.	
SB 380	Deletes reference to aliens regarding preferential employment on public works.	
SB 406	Clarifies punishment of habitual criminals.	
SB 407	Limits the display of obscene material.	

*Please do not ask for counsel unless necessary.

HEARINGS PENDING

Date _____ Time _____ Room _____
Subject _____

Date _____ Time _____ Room _____
Subject _____

For AB 464 (1971 Session) A SUGGESTION FOR CLARIFYING DATA PROCESSING

In Section 2 (amending NRS 3.280)

The substance of Section 2 (as is) should become subsection 1, then add NRS 3.280 subsection 2 as follows:-

"2. For an alternate method of maintaining the register-of-actions record provided in subsection 1, the clerk of the district court may maintain an effective register of actions by means of photographing, micro-photographing or mechanically or electronically storing the whole of all papers and records, necessary to the keeping of a register of actions, so long as the following control criteria of public record keeping shall be extant:

- (a) the completeness and chronological sequence of registry are not disturbed;
- (b) all such reproductions are placed in convenient and accessible files;
- (c) provisions are made for preserving, examining and using such files; and
- (d) the initial register of actions in book or loose-leaf-book form is maintained for the purpose of assuring the commencement of actions serially, entering plaintiff, defendant, intervenor, or applicant or the parties in ex rel in the title together with attorneys of record in each case, and entering thereafter under each case only such documents by notation as have filing fees required to be paid or notation of waiver of the fees.

This subsection shall not be construed to be inconsistent with the laws, rules or district judge's orders pertaining to control and custody of district court records."

(The above is a modification of California law)

Marriage Counseling
& Conciliation

Known Court-connected Services,
with summaries of statutes
& a bibliography

by KRONDA GOODWIN LOHINCZI



American
Bar
Foundation

KNOWN COURT-CONNECTED MARRIAGE COUNSELING
AND CONCILIATION SERVICES

On the basis of information collected during the course of this study, there are 154 marriage counseling services which have a formal connection to courts exercising divorce jurisdiction. This total figure includes the 72 counties in Wisconsin in which Family Court Commissioners bear a responsibility to attempt a reconciliation in each instance where an action for divorce is commenced, as well as a number of services (noted with an (a) in the following list) whose exact character is unknown to us. The 154 services exist in 24 states and the Commonwealth of Puerto Rico. When the services attached to courts which do not exercise divorce jurisdiction (indicated by the symbol (b) on the following list) are included, the total number of known services is increased to 159 in 28 states. Those services in the following list marked with the symbol (c) are those to which the American Bar Foundation Questionnaire on Court-connected Marriage Counseling was sent.

CITATIONS AND SUMMARIES

STATE	CITATION	SUMMARY
Alabama	Code of Alabama, see gen. Vol. 14 Appendix, §§ 582-91 and esp. § 590 (1960)	Investigation statute. Correspondence indicates it is used by some of the state's court personnel to work with families, but no professional counseling is authorized or used. Enacted in 1955.
Alaska	_____	One district court, on its own initiative, has requested--but not obtained--an appropriation for a professional counselor.
Arizona	Ariz. Rev. Stat. Ann. §§25-381.01 et seq. (1968 supp.)	Conciliation Court statute following the California Conciliation Court law. Enacted in 1962.
Arkansas	Ark. Stat. Ann. 22-133-36 (1962)	Investigation statute only. No know program. Enacted in 1955.
California	Code of Civil Proc. §§1730 et seq. (1955 and see 1968 Supp.)	Forerunner of all Conciliation Court statutes. Other California statutes authorize investigation and license private professional marriage counselors. Enacted 1939, amended 1955. Proposal to alter divorce law and place much greater reliance on counseling.
Colorado	Colo. Rev. Stat., Ch. 46, §§461-5-1 et seq. (1963)	Authorization for court affiliated marriage counselors. Enacted in 1960.
Connecticut	Conn. Gen. Stat. Ann. Title 51, §§ 51-182 (a) et seq. (1960) as amended (1968 Supp.). See esp. §§ 51-182(a), (e), (j), (1)	Authority to require appearance of litigants before domestic relations officer referee, for purpose of effecting a reconciliation. Enacted in 1959 and amended in 1965.
Florida	Fla. Stat. Ann. § 61.20 (1968 Supp.)	Investigation statute only. Enacted in 1959.

CITATIONS AND SUMMARIES

STATE	CITATION	SUMMARY
Georgia	Code of Ga. Ann., Title 24, §§ 24-2408 and 24-2412 (1935)	Investigation statute.
Hawaii	Rev. Laws of Hawaii Ch. 333, §§ 333-6(b), 11(c), 12(c), 23, and 41 (1965 Supp.)	Family Court system with broad authorization to promote family welfare has authority to hire professional marriage counselors.
Idaho	_____	No program known.
Illinois	Ill. Ann. Stat., Ch. 40, §§ 1.2 and 30 (1968 Supp.)	At present a counseling pro- gram exists in Cook County (Chicago) under the auspices of the circuit court. Statu- tory authority for court to suspend divorce proceedings upon written stipulation of both parties. 1953 non- professional counseling statute held unconstitutional, 1954.
Indiana	Ind. Stat. Ann., Title 9, § 9-2801b (1956)	Pilot project in operation, Indianapolis. Independent investigation statute.
Iowa	_____	No program known.
Kansas	_____	No program known.
Kentucky	Ky. Rev. Stat. Ann. Part II, Senate Bill 19 (1966 Supp.)	Authority for court to refer divorce litigants to unpaid "advisory committee."
	Ky. Rev. Stat. Ann. § 403.09 (1966 Supp.)	"Friend-of-Court" support en- forcement and investigation statute.
Louisiana	La. Stat. Ann., Const., Art. 7, § 53 (1968 Supp.)	Authority for East Baton Rouge to establish Family Court. No program known; no statute in existence re marriage counseling.

STATE	CITATION	SUMMARY
Maine	Me. Rev. Stat. Ann., Title 19, § 751 (1967 Supp.)	Investigation statute only.
Maryland	_____	Local Baltimore-proposed service abandoned for lack of funds.
Massachusetts	Acts and Resolves of Mass., Ch. 620 (1961)	Mandatory counseling statute for two counties expired in 1964 without implementation.
	Ann. Laws of Mass., Ch. 208, § 16 (1955)	An atypical investigation statute seems designed to prevent fraud in uncontested divorce actions.
Michigan	Mich. Stat. Ann. §§ 25.123(1) et seq. (1968 Supp.)	Authority for court-affiliated counseling service. Pre- existing Wayne County (Detroit) service justified by "Friend of the Court" statute. (eff. Aug. 14 [1964]).
	Mich. Stat. Ann. §§ 25.171 et seq. (1968 Supp.)	
Minnesota	Minn. Stat. Ann. Ch. 487, §§ 487.01 et seq. esp. § 487.03(8) (1955)	Typical investigation statute used to justify counseling service for Hennepin County (Minneapolis).
	Minn. Stat. Ann., Ch. 636, §§ 636.09 et seq., esp. § 636.14 (7) (1967 Supp.)	Authority for Ramsey County (St. Paul) probation department to provide court-affiliated counseling service. As of 1968, no such service existed.
Mississippi	_____	No program known.
Missouri	_____	St. Louis City and St. Louis County each have a local counseling service.
Montana	Rev. Codes of Mont., Title 36, §§ 36, 201 et seq. (1967 Supp.)	Conciliation Court statute based on the California Conciliation Court Law. Enacted in 1963.

CITATIONS AND SUMMARIES

STATE	CITATION	SUMMARY
Nebraska	Neb. Rev. Stat., §§ 42-801 et seq.	Conciliation Court statute based on the California Conciliation Court Law.
Nevada	_____	No program known.
New Hampshire	NH Rev. Stat. Ann. Ch. 167-B (1964)	Unique statute allows court to compel divorce litigant to appear before private counseling services, which are reimbursed at a set rate by the State Department of Welfare. Enacted in 1961, amended in 1963.
New Jersey	_____	A counseling service established by rule of court in 1957 and abandoned in 1960.
New Mexico	_____	No program known.
New York	NY Ann. Stat., Dom. Rel. §§ 215 et seq. 91968 Supp., McKinney)	Conciliation efforts are an integral part of divorce, separation, and annulment procedure, based upon Wisconsin Family Code, eff. Jan. 1, 1968.
North Carolina	Gen. Stat. of NC, § 7A-134 (1967 Supp.) and § 7-103(i) 1967 (Supp.)	Authority to appoint counseling services to judges in any county of over 85,000 population Authority to investigate (1) in divorce actions where custody of child an issue.
North Dakota	ND Code §§ 27-05.1-01 et seq. (1967 Supp.)	Variation of the California Conciliation Court. Enacted in 1965.
Ohio	Ohio Rev. Code Ann., Title 31, § 31-0503 (1964)	Investigation statute used in several counties as authorization for counseling service. Enacted in 1950; amended 1963.
Oklahoma	Okla. Stat. Ann., Title 20, §§ 951 et seq. (1968 Supp.)	Conciliation Court statute passed 1963, declared unconstitutional in 1964.

CITATIONS AND SUMMARIES

STATE	CITATION	SUMMARY
Oregon	Ore. Rev. Stat. Ch. 107, §§ 107, 510 et seq. (chapters replaced 1965-66)	Slightly revised version of California Conciliation Court
Rhode Island	Gen. laws of RI, §§ 8-10-1 et seq., esp. §8-10-5, 10-7, and 10-39 (1967 Supp.)	Family Court Act with broad powers to promote family welfare man- dates court-affiliated family counseling service.
South Carolina	Code of SC Title 20, §§ 20-110 (1962)	Court has duty to seek recon- ciliation of divorce litigants in all cases.
South Dakota	_____	No program known.
Tennessee	_____	No program known.
Texas	_____	Several dispersed investigation statutes for specified counties.
Utah	Utah Code Ann. Tit. 30, §§ 30-3-12, and 30-3-17 (1967 Supp.)	Authority for court to counsel divorce litigants and compel them to appear before noncourt- affiliated counselors is all that remains after repeal of court- affiliated counseling service statute.
Vermont	_____	No program known.
Virginia	_____	No program known.
Washington	Rev. Code of Wash. Ann. Tit. 26, §§ 26.12.010 et. seq.	Conciliation Court statute based on California Conciliation court law. Enacted in 1949.
West Virginia	_____ (1961)	Investigation statute, but with emphasis preventing fraud and collusion in divorce cases.
Wisconsin	Wis. Stat. Ann. §§ 247.081 et seq. (1968 Supp.)	Revises title and duties of legal officer known as 'family court commissioner' to require same to seek to effect a reconcilia- tion in every divorce action, either himself or be referred to outside agency.

CITATIONS AND SUMMARIES

STATE	CITATION	SUMMARY
Wisconsin (cont'd.)	Wis. Stat. Ann. §§ 252.016 et seq. (1968 Supp.)	Creates a "Department of Family Conciliation" for 2nd judicial district (Milwaukee) with authority to provide professional court-affiliated marriage counseling service.
Wyoming	<hr/>	No program known.