

Assembly  
HEALTH & WELFARE COMMITTEE MINUTES

152

MARCH 5, 1973

MEMBERS PRESENT: BENNETT, CRADDOCK, WITTENBERG, McNEEL,  
GETTO, FRY & HICKEY

MEMBERS ABSENT: None

GUESTS: H. Russell Thayer, Western Nev. Funeral Society  
Gene Clock, Washoe Co. Dist. Health  
Larry Struve, Washoe Co. District Attorney  
Don Penny, Retired Teachers & Retired Persons  
Earl Webster, " " " "  
Assemblyman Eileen Brookman  
Keith Kandarian, self  
Alfred Zamora, self  
Lee Adler, Press

Chairman Bennett called the meeting to order for the purpose of first discussing AB 429.

Mr. H. Russell Thayer appeared in support of bill. He represents the Western Nevada Funeral Society, a non-profit organization registered in the State of Nevada, consisting of approximately 100 members. He stated they were interested in simple, dignified and unostentatious funerals, and if a body is to be cremated, there is no need for a casket. He had not considered the limitations that could be placed on a container required by a crematory, and felt that a blanket would be sufficient. He knew of no health laws that required a container.

Mr. Earl Webster, representing the Retired Teachers and Retired Persons, was also in favor of the bill. He cited personal experiences and felt the expense of a casket was very unnecessary when cremation was anticipated. He agreed with Mr. Craddock that there should be a maximum requirement price for a container.

The discussion turned to SB 190.

Mr. Gene Clock, Washoe County District Health Dept., explained that the purpose of the bill was to extend the powers of the State Registrar as provided by Chapter 440 NRS to allow the local registrars to process affidavits in certain circumstances, namely: at the election of the mother, affidavits by both the father and mother are submitted to the local health officer which acknowledge paternity and consent for the name of the father to be entered on the certificate and provide that the surname of the child entered on the certificate be the same as that of the father so entered.

The standard form as recommended by the National Center for Health Statistics provides for a father of a child to be listed

on the certificate on that portion to be reproduced. Irregularities on the certificate can be a stigma to a child - the absence of a father's name, different surnames in the family, absence of required signatures, etc.

Copies of the birth certificate under the provisions of this bill could be immediately available without the delay of waiting under the State registrar could provide the copies. NRS 440.170 precludes the local registrar from rendering this service if there is any indication the birth occurred out of wedlock.

Mr. Larry Struve, Deputy District Attorney, Washoe County, stated the intent of this bill is to give legislative direction to the hospital staffs to accept affidavits presented by the parents and to completely fill out the birth certificates. It is merely clarifying what is already on the statutes, but the hospitals have not been doing this. In answer to a question as to what legal effect the name of the father would have on the birth certificate, Mr. Struve read section 446.10. In effect, if the father is willing to execute an affidavit acknowledging paternity of the child, he is accepting responsibility.

Mr. Struve asked that a copy of his letter to Senators Swobe and Wilson be made part of the record. A copy of such letter is attached hereto, marked Exhibit A, and made a part of these minutes.

Assemblyman Brookman appeared before the Committee with the following suggested amendment:

Amend section 1, page 2, by inserting between lines 22 and 23:

"6. If the mother was unmarried at the time of birth and the surname of the father is not to appear on the birth certificate as the surname of the child pursuant to this section, the mother may, at her election, have the child bear her legal surname at the time of birth.

She stated this amendment was drawn up at the request of herself and Dr. Ravenholt, head of the Clark County Health Department. She requested that Gary Owens, Legal Counsel, be called to explain the amendment and verify what she and Dr. Ravenholt were trying to do. She does not want the mother restricted in any way.

Mr. Struve had no objection to the amendment, but felt that it was not necessary as Line 2, page 2, requires the mother's consent for the name of the father to appear.

This point was argued at length, and Gary Owens, Legislative Counsel, appeared. As he understood Dr. Ravenholt and Assemblyman Brookman, their problem was as follows: In hospitals an unwed mother was required to give her maiden name for the birth certificate and not her surname if she had been married. This proposed amendment was written to give the mother the election to have the child bear her legal surname. He feels that the bill as it stands now is a good one, the amendment would further clarify the bill but it brings in something different, and it is a question of how far the Committee wants to go. The bill merely allows a father to sign an affidavit acknowledging paternity of the child. The amendment goes into a different aspect - the father isn't around, the mother doesn't want to use her maiden name, and it gives mother election to choose.

Assemblyman Brookman requested that the amendment be reworded and gave it to Mr. Owens for that purpose.

Witnesses were excused.

AB 429 Mr. Hickey moved "Do Pass". Mr. Getto seconded.  
Unanimously passed.

SB 190 Mr. Getto moved "Do Pass". Motion seconded by Mr. McNeel.  
Yes votes: Bennett, Craddock, Wittenberg, Fry,  
                    Getto, McNeel  
No votes: Hickey  
Motion carried.

AB 405 Mr. Wittenberg motioned "Do Pass". Seconded by Mr. Craddock.  
Mr. McNeel requested that the vote be delayed until people who had called him and asked to be allowed to testify could come in.  
Chairman Bennett called for a vote.  
Yes votes: Bennett, Craddock, Hickey, Wittenberg  
No votes: Fray, Getto, McNeel  
Motion carried.

Mr. Getto moved that AB 405 should be referred to Committee on Ways & Means. McNeel seconded.  
Unanimously passed.

Mr. Getto stated that a minority report would be filed on AB 405.

Mr. Craddock stated he felt the crematories should be admonished not to place exorbitant prices on containers or further legislation would be required to curb them.

Meeting adjourned.

Respectfully submitted,

Jane Dunne, Secretary

ASSEMBLY

AGENDA FOR COMMITTEE ON HEALTH & WELFARE  
Monday

Date March 5, 1973 Time 8:00 a.m. Room 240

<u>Bills or Resolutions to be considered</u>	<u>Subject</u>	<u>Counsel requested*</u>
AB 429	Provides that no casket is required for delivery of a dead body for cremation.	
SB 190	Requires name of father of child born out of wedlock to appear on birth certificate and be used as surname of child under certain conditions.	
AB 422	Regulates the rates charged for basic care at inpatient medical health care facilities.	

*[Handwritten signature and scribbles over the table content]*

\*Please do not ask for counsel unless necessary.

ASSEMBLY

AGENDA FOR COMMITTEE ON HEALTH & WELFARE

Monday

Date March 5, 1973 Time 8:00 a.m. Room 240

Bills or Resolutions  
to be considered

Subject

Counsel  
requested\*

THIS AGENDA SUPERSEDES AND CANCELS PREVIOUSLY

PUBLISHED AGENDA FOR MONDAY, MARCH 5, 1973

- |        |   |  |
|--------|---|--|
| AB 429 | Provides that no casket is required for delivery of a dead body for cremation.  |  |
| SB 190 | Requires name of father <del>of child</del> of child born out of wedlock to appear on birth certificate and be used as surname of child under certain conditions. |  |

HEALTH AND WELFARE COMMITTEE  
LEGISLATION ACTION

DATE March 5, 1973

SUBJECT AB 429

MOTION:

Do Pass X Amend        Indefinitely Postpone        Reconsider --

Moved By Hickey Seconded by Getto

AMENDMENT:

Moved By                      Seconded By                     

AMENDMENT:

Moved By                      Seconded By                     

VOTE:

	MOTION		AMEND		AMEND	
	Yes	No	Yes	No	Yes	No
Bennett, M.	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
Craddock, R.	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
Hickey, T.	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
Wittenberg, A.	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
Fry, L.	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
Getto, V.	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
McNeel, R.	<u>X</u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>

TALLY:

Original Motion: Passed X Defeated        Withdrawn       

Amended & Passed        Amended & Defeated       

Amended & Passed        Amended & Defeated       

Attach to Minutes                       
(Date)







February 2, 1973

State Senator Coe Swobe  
Nevada State Senate  
Nevada State Legislative Building  
Carson City, Nevada 89701

State Senator Spike Wilson  
Nevada State Senate  
Nevada State Legislative Building  
Carson City, Nevada 89701

Re: Proposed Birth Registration Statutes of  
District Health Department

Dear Coe and Spike:

Gene Clock of our local Health Department was concerned that during his conference with you on February 1, 1973, he did not clearly explain the need for the introduction and passage of BDR 40-240, which would require the name of a father of a child born out of wedlock to appear on a birth certificate and to be used as the surname of the child under certain conditions. As I indicated to Coe by telephone on February 2, 1973, this statute is necessary to clarify the procedure now followed by many local hospitals concerning the completion of birth certificates of illegitimate children.

If you will look at NRS 440.280(4), you will note that the language of this statute indicates that the name of the father of an illegitimate child may be entered on the birth certificate IF HE GIVES HIS WRITTEN CONSENT TO BE NAMED AS THE FATHER or paternity has been determined by a court of competent jurisdiction. The problem to which BDR 40-240 is addressed is confined only to those circumstances where a father has given his written consent or otherwise executed an affidavit of paternity to be named as father of an illegitimate child on the birth certificate PRIOR TO THE TIME SAID CERTIFICATE IS FORWARDED TO THE STATE REGISTRAR FOR REGISTRATION. Obviously,

State Senator Coe Swobe  
State Senator Spike Wilson  
February 2, 1973  
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if an affidavit of paternity is executed after an original certificate of birth of an illegitimate child is recorded in the State Registrar's Office, the provisions of NRS 440.325 would apply.

As I indicated to Coe, a number of bizarre possibilities exist under current Nevada laws concerning the surname that can be given to an illegitimate child. The Attorney General's Office has rendered an opinion that it is the policy of the State Health Division to give an illegitimate child the same surname as the maiden name of the mother, even though the mother may have a different legal name appearing on the birth certificate. In addition, the Attorney General has indicated that even after an affidavit of paternity or written consent is executed by the father of an illegitimate child, the mother is free to decide what surname to give the child. Accordingly, the legislative intent of removing all notations of legitimacy on a birth certificate is defeated by current policy, since it is possible under present law for the illegitimate child to have one surname, the mother another surname, and the father of such child a third surname.

On top of the above confusion, there is the added problem that local registrars will not accept written consents of fathers of illegitimate children after such children are born, even though the original certificate of birth has not yet been forwarded to the State Registrar. Thus, to remove the stigma of illegitimacy caused by a blank space where the father's name should be, the parents of illegitimate children are faced with a bureaucratic hassle of getting a new certificate of birth prepared, and oftentimes this hassle discourages them from making the effort.

Finally, Gene Clock indicated to me that you were concerned about the legal effect of putting an illegitimate father's name on a birth certificate or giving an illegitimate child the surname of his father. I believe you will find that there is a dearth of Nevada law on the issue of when legitimation of a child occurs and what the ramifications of legitimation are. It is my feeling that this is an area that should be thoroughly reviewed by the Legislative Council's Office for possible legislation. However, since current Nevada law permits the placement of the father's name of an illegitimate child on the birth certificate, BDR 40-240 adds nothing to the confusion caused by this problem that is not already present. However, it does clarify the procedure to be followed in these circumstances

State Senator Coe Swobe  
State Senator Spike Wilson  
February 2, 1973  
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which at least would eliminate many procedural problems now being experienced at the local level in birth registration.

In view of the above, I hope you will proceed to introduce BDR 40-240 and assign it to committee for further hearings. I will be happy to testify at such hearings and elaborate on what I have discussed above. Should you have any questions please do not hesitate to so advise.

Very truly yours,

ROBERT E. ROSE  
District Attorney

By \_\_\_\_\_  
LARRY D. STRUVE  
Deputy District Attorney

LDS/dh  
cc: Gene Clock  
Dr. William E. Winikow