

JUDICIARY COMMITTEE  
57th NEVADA ASSEMBLY SESSION

MINUTES

February 13, 1973

Mr. Keith Hayes, Chairman, called the meeting to order at 2:18 PM.

MEMBERS PRESENT: MESSRS: Hayes, Barengo, Torvinen, Huff, Fry, Lowman and Ms. Foote and Mr. Hickey.

MEMBERS ABSENT: Mr. Glover [excused]

GUESTS PRESENT: Mr. Bud Campos from Parole and Probation; Victor LoCicero, M.D., SUPT. Nevada State Hospital; Ronald Stroup, Chief of Identification and Communications for the Crime Commission; Mr. Gary Sheerin, State Public Defender; Mary Jane Loper, representing the Southern Nevada Drug Abuse Council; John Meder of the Nevada Association of County Commissioners; and Mrs. Shirlee Wedow of the Nevada Parent Teacher Association.

Mr. Hayes welcomed the guests and announced that since the majority of those present were speaking in regard to AB 33 the Committee would hear testimony on this bill first.

A.B. No. 33 SUMMARY-Permits district attorneys to obtain commitment of certain drug addicts. Fiscal Note: No. (BDR 39-9)

Mary Jane Loper was the first to speak on this bill. She stated that there was a definite need for this type of legislation, but that perhaps the bill lacked certain provisions which should be included. She asked whether in Section 4.1 "the hospital or the mental health center" referred only to the State Hospital and the state supported mental health centers/? This section should be written so that the commitment could be made to any recognized drug treatment program or perhaps residential drug treatment program. The State Hospital and Southern Nevada Comprehensive Mental Health Center are not equipped to provide rehabilitation for addicts. She continued, "that there probably needs to be some provision for limiting the availability of this commitment to addicts charged with non-violent crimes. It is unlikely that A D.A. would request it in a crime of violence, but just in case." The feeling prevails also that there has to be a motivation for treatment. "If an addict is certified by the treatment facility as having successfully completed his rehabilitation program, the judge should drop the charges pending. If the treatment facility notifies the court that the addict is not responding to treatment and is judged unable to be rehabilitated the addict should be released into the custody of the sheriff and action on the pending charges should proceed.

Mr. Hayes asked if this may not precipitate a revolving door situation. "What would be the situation if an addict was arrested after having completed rehabilitation treatment"?

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Mrs. Loper responded that Indiana under this type of legislation limits the number of times an individual may take advantage of this program.

Mr. Lowman inquired as to the availability of treatment facilities for addicts in the state at present. Mrs. Loper told the Committee that there are now some private facilities available primarily on an out-patient basis. She also related that the Southern Nevada Drug Abuse Council has received word that they will be receiving \$500,000.00 funding from the federal government to provide treatment facilities.

Mr. Campos spoke next stating that Mrs. Loper had covered many of the points he had felt needed to be brought out. He noted however, that the statute as now written provides that the State Department of Mental Health assume the case load which they are not prepared to do. He stated that he felt that it would be difficult to legislate for something that is not yet in effect referring to the grant from the federal government. Mr. Campos said that he was a little "leery" of the manner in which charges might be dropped. "If charges are to be dropped, they should be dropped only upon discharge of the program".

Doctor Lo Cicero testified that he believed this was necessary legislation, but that in order to avoid conflict and contradiction the measure should be tabled until all pertinent parties involved could get together and thoroughly discuss it from all angles. He said that he felt that a variety of solutions may be found. "The hospital is a poor substitute for the law, and the state Hospital is unprepared to handle the drug addict patient." "It is not a holding institution, there are no locks, etc." He said that a program of this nature requires flexibility in offering variance in treatment hours, combinations of In-patient - Out-patient care, etc.

At this time Mr. Hayes asked that remarks on AB 33 from Asst. Public Defender of Clark County, Thomas D. Beatty be included in the record. Mr. Beatty's response came as a result of communications concerning the agenda of the Judiciary Committee sent to the office of Public Defender, Morgan Harris.

"Frankly, a provision such as this, provided only that real effective treatment is afforded to the addict at the state institutions, is an excellent idea. Some questions remain: One, if the person is in fact a drug addict, then it would seem that the provisions of the bill should be triggered not only by offenses directly involving drugs but also property crimes often committed by addicts to obtain money for their addiction. Second, assuming that the addict despite his addiction is mentally and physically capable of standing trial, there may be a serious question on the right to a speedy trial being affected by this bill!"

Mr. Sheerin, State Public Defender, was the next witness on this bill. He stated that he had recently attended the National Conference on Crime and had learned a new definition of the word "diversion".

"Diversion is taking someone out of the criminal process and putting

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them into something else." "Enactment of this bill without de-criminalization would only be half a diversion." "This does nothing for the Judiciary". "One can visualize the backlog of paper work, etc. if these cases were waiting until completion of a treatment program to determine court action". Mr. Sheerin admonished the Committee "not to take half a step, take a whole step".

Assemblyman Huff questioned the effectiveness of this legislation, stating that in fourteen years as a law enforcement officer he could not recall one person who was rehabilitated. He further commented that he was opposed to a revolving door de-criminalizing feeling that it would do nothing more than perpetuate the problem.

Doctor LoCicero explained that the one big failing of the federal programs was the fact that no matter how well the addict did in a treatment program once he had to return to his old neighborhood and friends control is lost and he is back in the same element that originated the problem.

Mr. John Meder spoke primarily dealing with the cost of this legislation, and although the federal government may have approved a grant, there would also of necessity be an impact on local funding.

Mrs. Bhirlee Wedow of the Nevada Parent Teacher Association remarked that the main points with which her organization was concerned had been covered. [see attached]

Mr. Hayes thanked the witnesses for appearing and declared that the bill would be reset for further consideration at a later date to enable representatives from the District Attorneys Office in Clark County a chance to be heard.

AB NO. 111 SUMMARY-Permits an expert in the identification of controlled substances to appear at trials, preliminary examinations and grand jury hearings by affidavit. (BDR 4-35)

Mr. Stroup from the Crime Commission testified to the Committee that his department is supportive of this legislation. It would save time and money in eliminating the need for an expert witness to qualify in different areas of the state.

Mr. Hayes again read from the communication from Assistant District Attorney of Clark County Tom Beatty concerning the need for certain amendments to clarify this bill. [see attached] Mr. Hayes said that he would submit these requests to the bill drafters office and deferred action until such amendments could be incorporated into this bill.

AB. No. 144 SUMMARY-Prohibits private practice of law by district attorneys of larger counties after certain date. (BDR 20-662)

Mr. Hayes told the Committee that he had received a message that the Clark County District Attorney would like to appear before the Committee on this bill and was unable to be present at todays meeting.

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Assemblyman Barengo inquired whether this bill might not be discriminating against the District Attorneys, in that it should probably include the Attorney General, the State Public Defender, City Attorneys, and possibly the Deputy Attorney Generals.

Mr. Hickey asked if including all of these officials might not be prohibitive in attracting the type of person the public would wish to have representing them.

Mr. Torvinen agreed that probably city attorneys should be excluded, but that the State Public Defender and the Attorney General should not. At this point Mr. Hayes requested Mr. Torvinen to get in touch with the bill drafters office concerning an amendment to this effect.

A.B. 144 was re-scheduled for Thursday, February 22. Copies of the agenda for this date are to be sent to the Attorney General, the State Public Defender, and the District Attorneys Office of Clark and Washoe Counties.

A.J.R. No. 31 SUMMARY-Proposes to amend the Nevada constitution by creating a criminal court of appeals. (BDR C-157)  
(56th Session)

Mr. Torvinen, author of the bill, spoke to the Committee regarding the history and current posture of the bill. He stated that this bill evolved after he had made a study of the criminal procedure in England. The intent of this legislation is to speed up the process of criminal justice. It would relieve the Nevada Supreme Court of 99% of its criminal caseload. Mr. Torvinen informed the Committee that it presently takes up to 14 months for disposition of appeals to the high court. He said the posture of the bill now is that it passed the Assembly and Senate in 1971, if it should pass again this session it will go to the voters as a proposed constitutional amendment in 1974.

Mr. Gary Sheerin, State Public Defender, said that there were other alternatives one of which would be doing away with post-conviction appeals. He further stated that the concept of a Criminal Court of Appeals was "great", but that it would require additional hiring in his office and in the office of the Attorney General to handle the increase in work. He also said that it would cost between \$150,000.00 and \$200,000.00 to set up this type of arrangement.

Mr. Hickey said that he felt that this estimate was in extreme, and that he was looking into the possibility of drafting a bill to reduce the time lag in court systems.

Mr. Hayes stated that he viewed this as a "very important step in speeding up the criminal process.

Mr. Torvinen moved to recommend DO PASS, Mr. Lowman seconded. Mr. Hickey was the only member of the Committee voting against this recommendation.

MOTION CARRIED

The Meeting was adjourned at 3:50 PM

