

JUDICIARY COMMITTEE
57th ASSEMBLY SESSION-NEVADA

MINUTES

FEBRUARY 15, 1973

The meeting was called to order by Mr. Keith Hayes, Chairman. The Chair declared a quorum present.

MEMBERS PRESENT: MESSRS: HAYES, BARENGO, TORVINEN, HUFF, FRY, LOWMAN, HICKEY, AND Ms. FOOTE. Mr. GLOVER (TARDY)

MEMBERS ABSENT: NONE

GUESTS PRESENT: GENE COUGHLIN, HEAD COUNSELOR FROM THE NEVADA STATE PRISON; LT. WILEY PEEBLES FROM THE NEVADA STATE PRISON; Mr. James Gerow from the DEPARTMENT OF PAROLE AND PROBATION; MR. BUD CAMPOS FROM THE DEPARTMENT OF PAROLE AND PROBATION; and OBSERVERS: NAOMA HAINEY, UNIVERSITY OF NEVADA LIBRARY; AND HELEN PHILLIPS, AND MARY JACISON OF THE UNIVERSITY OF NEVADA LIBRARY.

The first bill scheduled for discussion today is S.B. No. 64.

S.B. No. 64 SUMMARY-Increases the penalty for assault and battery when committed by prisoners in the state prison. (BDR 16-289)

Mr. Barengo pointed out that the Senate had amended this bill to change assault with a deadly weapon from a gross misdemeanor to a felony. He said that if a prisoner threatened a person with a gun which was what he assumed the concern in this area dealt with, it would be assault with intent to commit murder which achieved the same purpose. "Making a felony out of a prisoner waving a baseball bat seems a little stringent".

Mr. Fry asked the representatives from the prison to refer to AB 34 which is similar in nature to SB 64.

Mr. Peebles stated that in reviewing AB 34 the point which concerned him that possibly should be covered was the instance where an employee was threatened by a prisoner and the threat carried out at a later time. Although the incident of the threat was at a time when the employee was on duty, it may be carried out after duty hours.

Mr. Hayes announced that our Committee would get together with the Senate Judiciary Committee to try and establish a bill which would meet with the agreement of both houses.

S.B. No. 81 SUMMARY-Prohibits the use of drugs, chemicals, poisons or organic solvents as chemical stimulants on one's person unless used under the direction of a physician. (BDR 40-30)

Mr. Barengo explained that when the Controlled Substances Act was passed a number of sections were deleted and the section on glue sniffing was inadvertently left out. As the law now stands glue sniffing is not a crime.

Mr. Hayes stated that his only question concerning this bill was whether or not it included an alcoholic beverage. The concensus of the Committee was that as the bill now stands it would. Mr. Hayes further noted that he did not believe that they intended to pass prohibition again in the State of Nevada. It was decided to possibly re-consider S.B. 81 after getting further information.

S.B. No. 93 SUMMARY-Provides state board of parole commissioners with optional authority to forfeit good behavior credits for violation of parole and authorizes board to restore those credits. (BDR 16-304)

Mr. Peebles explained that when this bill was drafted the original intent was that when a man violates parole it would not be an automatic forfeiture of previously earned statutory good time, that it would be discretionary. There is conflict in that the Department of Parole and Probation would rather it be a blanket loss of all credit, and give the Board the option of restoring credits lost at a later date. The prison authorities are now in accord with this bill as amended.

Mr. Barengo moved to recommend DO PASS, Mr. Glover seconded.
MOTION CARRIED UNANIMOUSLY.

S.B. No. 98 SUMMARY-Requires certain reports to be made to warden of Nevada state prison. (BDR 14-287)

Mr. Coughlin told the Committee that this bill modernizes an existing statute requiring the statement of facts go to the prison staff instead of the parole board since the prison staff does the work for which these reports are necessary.

Mr. Barengo said that he felt that this was a duplicating effort since the pre-sentence report whould detail this information. Mr. Coughlin said that they could not rely on the pre-sentence report and that in some cases there is no accurate version of the actual crime. The District Attorney's statement of fact is a more accurate source of information. Also the fact that quite often the District Attorney states his recommendations on a particular subject of the case in which he has actually been involved the statement of fact is very helpful to the prison staff.

Ms. Foote moved to recommend DO PASS, Mr. Lowman seconded.
Mr. Torvinen abstained from voting.
MOTION CARRIED.

S.B. No. 100 SUMMARY-Increases penalty for certain offenses relating to dangerous weapons if committed by prisoners in the Nevada state prison. (BDR 16-290)

Mr. Coughlin explained that the intent of this bill was to broaden existing statutes to include prisoners at the prison as a deterrent for having weapons in the prison. He answered the question of the Committee regarding prosecution in these cases by telling them that in cases where sentence is imposed as the law now reads the sentence must be consecutive not concurrent. However, often times the judge will reverse this decision. Judges often are reluctant to impose consecutive sentence when a prisoners term is near completion and will grant probation to be served concurrently.

Mr. Coughlin stated that frequently prisoners armed themselves ingeniously for either protection from fellow inmates or as "scare tactic".

Mr. Fry inquired as to whether this should also include the county jails. Mr. Coughlin replied that since the views along these lines were not known the county jails had not been included.

The general feeling of the Committee is that this bill should be amended to include any person incarcerated having a weapon or arming himself.

HELD FOR AMENDMENT

S.B. No. 101 SUMMARY-Increases penalty for prisoner escapes in certain cases. (BDR 16-303)

Mr. Coughlin stated that it is not reasonable for a man who makes a "simple walk-off escape" to be punished the same as one who makes a "strong arm breakout".

Mr. Hayes inquired about hostages. To this Mr. Coughlin replied that there are no hostages and that there was security for the prison employee in this policy since he knows that the staff will come after any prisoner attempting to accomplish this. This is the only real protection for the employee of the prison.

Mr. Huff moved to recommend DO PASS, Mr. Hickey seconded.

MOTION CARRIED UNANIMOUSLY.

S.B. No. 102 SUMMARY-Relaxes certain restrictions on good behaviour credits for prisoners in state prison and provides for earning credits during parole. (BDR 16-296)

Mr. Coughlin reported that the position of the prison on this bill is that if a person loses statutory time for mis-behavior he should be able to earn credit for good behavior. A prisoner does not achieve parole without having behaved well therefore while paroled he

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should be able to acquire good time credits while on parole.

Mr. Campos presented the views of the parole and probation department stating that this would prostitute the intent. There is no equitable manner of distribution. Since over half of the persons on parole were serving this parole outside of the State of Nevada it would be impossible to keep track of who should, and who should not receive credits. "I do not believe in credits given when they are not earned."

Mr. Torvinen remarked that the problem of administration could be easily visualized. Mr. Hayes said that his immediate reaction was that conceptually this was a good idea, but felt that it would fail in administration.

Mr. Huff said that even if the prison employed a full time staff member to handle this procedure they would still have to depend on other jurisdictions for their reports. Mr. Torvinen remarked that even then it would be difficult to perceive whether the report was subjective or objective.

Mr. Barengo moved to recommend DO PASS, Mr. Lowman seconded.
MOTION CARRIED UNANIMOUSLY.

Mr. Lowman reported back to the Committee on AB 185 stating that this bill was declared unnecessary and duplicated other statutes.

Mr. Lowman moved to indefinitely postpone AB 185, Mr. Fry seconded. Mr. Glover who had arrived late and missed the discussion abstained from voting.
MOTION CARRIED.

Mr. Hayes announced that he had been contacted relative to a joint Judiciary Committee meeting to hear Mrs. Armstrong, a Presidential Appointee, speak as a proponent of the proposed "Equal Rights Amendment". A tentative date of Wednesday, February 21, 1973 was set.

Mr. Fry moved to adjourn, Mr. Barengo seconded.
MEETING ADJOURNED.

* NOTE : ALL COMMITTEE VOTES ON BILLS WERE TAKEN AFTER THE WITNESSES ON THESE BILLS HAD BEEN EXCUSED.

