

JUDICIARY COMMITTEE
MINUTES

February 21, 1973

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Meeting was called to order by Mr. Keith Hayes, Chairman.

MEMBERS PRESENT: MESSRS: HAYES, BARENGO, GLOVER, TORVINEN, HUFF, FRY,
LOWMAN, AND Ms. FOOTE.

MEMBERS ABSENT: MR. HICKEY [excused]

GUESTS PRESENT: MR. NED SOLOMON,
Mr. Gary Sheerin, STATE PUBLIC DEFENDER

Mr. Hayes opened the meeting by calling the Committees' attention to the Manuals of Criminal Law on their desks. He informed the members that these were provided for Committee use during the session by Mr. Carroll Nevin thru Mr. George Wendell of the Crime Commission. He further instructed the secretary to send a letter of appreciation.

Mr. Hayes announced that he would have to leave Committee at three o'clock and that Mr. Barengo would take the Chair at that time.

Mr. Hayes introduced Mr. Ned Solomon from the Juvenile Division in Clark County stating that Mr. Solomon is a life-long friend. Mr. Solomon is appearing before the Committee in opposition to A.B. 228.

A.B. No. 228 SUMMARY-Permits publication of name of juvenile and names of his parents after one previous adjudication of offense constituting felony. (BDR 5-774).

Mr. Solomon told the Committee that all the evidence demonstrated in the Juvenile Court would not lead one to the conclusion that publishing names is a deterrent. He said that there were very few states with this provision, however Montana has shown just the reverse of what this bill is trying to accomplish. There has been an increase of juvenile crime since publication of names has been initiated according to the police report. One of the arguments for publishing names is to help the community be on guard to protect themselves, but it has no rehabilitative effect. All it seems to do is channel the delinquency elsewhere. The people look out for themselves. The rationale for publishing names is that it helps prevent juveniles from becoming delinquent because they would be embarrassed to have those who love and support them ridiculed or scorned by the publication of their names. For the children who have this concern, there is little to worry about anyway, by the very nature of their attitude. Certain individuals, because of their delinquent makeup find a great status in collecting articles about the crimes they have committed, publishing of names would only enhance this attitude. Publishing of names is not effective as a deterrent. There is however a serious detrimental effect on the other children in a family are often shunned. If the delinquent behaviour is reinforced by publishing of names it makes it much more difficult to carry out the rehabilitation process. It seems to us that the thrust should not be that of identification of an individual so that he can be shunned, but rather rehabilitation so that he can be trusted.

Mr. Huff asked of Mr. Solomon how far he would propose we go in the protection of juveniles. Past records are withheld now. Mr. Solomon explained that a directive was sent from the Attorney General that past records of juveniles was not to be given out to anyone. A code has been worked out with law enforcement so that they might have a basis

for determining whether or not they should bring a child in. This is mainly identifying information etc., according to law the arrest is made on the present situation, not on a past record.

Mr. Solomon told the Committee that Judge Wendell in Las Vegas had made a video-tape explaining to the different police agencies what information and how to get it was available, and explaining the rationale behind the situation at the present time.

Mr. Barengo asked Mr. Solomon to give the Committee his background history.

Mr. Solomon stated that he is presently the Associate Director of counseling services for the juvenile court in Las Vegas, and has been since 1967.

Mr. Solomon informed the Committee that one of the main problems in going over the air on a police band is that the public in general has this band now, but that if a special problem or need required past records of a juvenile they are usually given to any law enforcement branch which came directly to the juvenile division.

Mr. Solomon maintained throughout the questioning that in his opinion publishing of names was not a deterrent. Rehabilitation is the answer. The rate of success in his office is 87% success for those on probation and 83% successful for those off probation. He did not have any figures on the felony rate.

Mr. Wittenberg appeared before the Committee and gave a brief history on this legislation. In the last session it passed the Judiciary Committee and also the Assembly, but for questions of what constitutes an appearance, ie: curfew violation etc., it was stopped in the Senate Judiciary. The language has been changed somewhat. Mr. Wittenberg stated that his basic feeling on this bill was that if it were made law, in cases of an initial felony offense by a juvenile, the judge would inform the parents that if the same child were to appear before the court again on a felony charge, not only the child's name and reputation, but also the parent's name and reputation would be available for publication. Mr. Wittenberg said that in a study made by the F.B.I. figures showed that 51 - 55% of the crimes committed by a person 18 or under would constitute a felony. Parents have a right to know who their children are associating with, and unless these things are made public they have no way of knowing. If this bill is made law they will know who is who.

Mr. Fry said that the structure of society being what it is the newspapers would possibly shield some juveniles and not others.

Mr. Gary Sheerin appeared before the Committee to present a financing plan from his office of State Public Defender, and also to request the Committee to introduce three bills in the Assembly pertinent to his office.

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Mr. Sheerin gave a brief history of his position, saying that in the 56th Session of the Legislature convened they created the office of the Public Defender and one of the things they authorized was that Mr. Sheerin submit a financing plan so that the fourteen counties that participate in donating money to the entire plan would see the various allocations etc.

The summaries of the three bills which Mr. Sheerin has requested the Committee to introduce are:

1. Allows state public defender to contract with other county public defenders.
2. Allows state public defender to collect fees from counties using the services of the state public defender.
3. Places salary of state public defender in the unclassified section of the state personnel system.

Mr. Barengo informed Mr. Sheerin that he would submit these to the LCB to be drawn up as bills for introduction.

A.B. No. 151 SUMMARY-Increases maximum value of estates which may be set aside without administration or administered summarily.

Mr. Fry told the Committee that he had requested an interim study of the whole probate system.

In deference to Mr. Hayes' absence, Mr. Barengo postponed discussion of this bill until Mr. Hayes is present.

A.B. No. 223 SUMMARY-Provides for copies of grand jury reports to be sent to persons or agencies which are the subject thereof.

Mr. Barengo questioned the possibility that this bill might violate a case law regarding the secrecy of the Grand Jury.

Mr. Fry commented that it may be injurious to the whole Grand Jury System.

Since Mr. Hayes is on this bill as author, Mr. Barengo set this bill aside for further explanation from Mr. Hayes.

A.B. No. 224 SUMMARY-Permits jurors to be paid in cash immediately upon completion of their service (BDR 1-892)

Mr. Barengo explained for benefit of the Committee that this would be time and money saving, eliminating administrative paper work etc.

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

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A.B. No. 228 SUMMARY-Permits publication of name of juvenile and names of his parents after one previous adjudication of offense constituting felony. (BDR 5-774)

Mr. Barengo asked if after hearing testimony on this bill there was any motion.

Mr. Lowman moved to recommend DO PASS, Mr. Huff seconded.
VOTING AGAINST THIS MOTION WERE: MESSRS: BARENGO, TORVINEN, FRY AND GLOVER
MOTION FAILED. and Ms. Foote.

Since S.B. 52 is similar in nature to A.B. 151 Mr. Barengo set this bill aside to be heard in conjunction with A.B. 151.

Mr. Glover moved to adjourn, Mr. Huff seconded. Meeting adjourned.

