

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING HELD

31st DAY OF JANUARY, 1973

The meeting was called to order at 9:30 a.m. Senator Close in the Chair.

PRESENT:

- Senator Foley
- Senator Bryan
- Senator Dodge
- Senator Hecht
- Senator Swobe
- Senator Wilson
- Mr. Frank Daykin, Legislative Counsel Bureau
- Senator Echols

Senator Echols asked the committee to consider BDR #40-412\* for committee introduction and drafting. The proposed bill would make public intoxication a civil rather than a criminal act. There being no objection, the bill will be so introduced.

S.B. 64 - Increases the penalty for assault and battery when committed by prisoners in the State Prison.

Senator Close asked Mr. Daykin if the prison sentences prescribed under this bill would fit into the present criminal code. Mr. Daykin advised the committee that they do not fit into the present criminal code because it does not provide a maximum of less than 6 years so that the judge could have some flexibility in determining the minimum period for parole. Parole eligibility is calculated at 1/4 of the judges definite sentence or a minimum of 1 year.

Senator Dodge explained to Mr. Daykin the concern of several members of the committee that the penalty for assault without a deadly weapon was too harsh. After much discussion, the committee agreed to amend the bill to increase the penalties for assault with a deadly weapon and battery without a deadly weapon but resulting in "substantial bodily harm" as follows:

The penalty for assault with a deadly weapon under NRS 200.471 subsection 2b) would be increased to a felony (1 to 6). The new wording in lines 10-17 covering the prison situation would be deleted. The penalty for battery not committed with a deadly weapon, but resulting in "substantial bodily harm", would be increased to a felony (1 to 6). Frank Daykin also suggested conforming the language "serious physical injury" to the other assault and battery sections by inserting in its place "serious bodily harm." These changes would cover all situations, including the prison situation, and give the inmate

as much protection as guards and employees.

Senator Swobe moved to amend as above and "DO PASS." Senator Foley seconded the motion. Motion carried.

S.B. 66 - Provides for parole eligibility for certain persons convicted of being habitual criminals.

Chairman Close explained to Mr. Daykin that the committee has no objection in providing parole eligibility for habituals, but questions whether the five year figure would be sufficient time. He questioned Mr. Daykin as to whether the five year figure would be consistent with the criminal code. Mr. Daykin replied that in 1967 they deleted reference to 7 years for eligibility for parole and inserted an alternative of 5 or 10 years, according to the seriousness of the offense; 5 years would apply to the lesser degree and 10 to heinous crimes.

Senator Bryan again stated his objection to allowing a parole eligibility in that short a time after a person is convicted 5 times previously. Senator Dodge stated that he agreed with Warden Hocker's testimony that a habitual might still be rehabilitated according to the degree of the situation. He also remarked that this would not mean a habitual would receive parole, but that it would then be up to the parole board to review the circumstances. He felt that if the parole board is working as well as was testified, this would be sufficient jurisdiction. Senator Dodge also remarked that unless the legislature desired to put in an intermediate time other than those established under the revised criminal code in an effort to conform sentencing, he would rather accept 5 years than 10.

Senator Dodge moved "DO PASS." Senator Swobe seconded the motion. Roll call on S.B. 66:

Yeas: Senators Dodge, Foley, Swobe and Close  
Neas: Senators Bryan, Hecht and Wilson  
Motion carried.

S.B. 92 - Limits term of imprisonment which may be imposed to satisfy a fine.

The committee reviewed the Supreme Court decisions which this bill was based on. They found no constitutional problem since this State does allow punishment with both a jail term and a fine.

Senator Dodge moved "DO PASS." Senator Swobe seconded the motion. Motion carried.

S.B. 93 - 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.

After some discussion, the committee agreed with the testimony of Mr. Campos that the provision for forfeiture of good time credits should be mandatory, and the restoration should be at the discretion of the parole board.

Senator Swobe moved to amend as above and "DO PASS." Seconded by Senator Foley. Motion carried.

S.B. 101 - Increases penalty for prisoner escapes in certain cases.

Chairman Close asked Mr. Daykin if the sentencing of 5 to 20 fits in with the criminal code. Mr. Daykin replied that he did not recall any penalty identical to this. Chairman Close remarked that he would like to see this sentencing be consecutive, but that the provision that the prisoner would then not be eligible for parole until 5 years minimum is served, would be too harsh. The committee agreed on sentencing of 2 to 20 consecutive, and in accordance with the request of Mr. Campos and Warden Hocker, non probatable.

Senator Bryan moved to amend and "DO PASS." Seconded by Senator Swobe. Motion carried.

S.B. 102 - Relaxes certain restrictions on good behavior credits for prisoners in State Prison and provides for earning credits during parole.

The committee reviewed the testimony heard on this bill and agreed with the insertion of the word "serious" before infraction under NRS209.280 subsection 1 and 209.285 subsection 1; deleting reference to "surpasses the general average" and inserting "merits such credits" under NRS 209.280 subsection 3 and NRS 209.285 subsection 3. The committee agreed to restore the original language concerning the good time credits for the donation of blood, allowing the credits for charitable purposes only; and retaining the provision that no good time credits be allowed to parolees.

Senator Dodge moved to amend and "DO PASS." Seconded by Senator Foley. Motion carried.

S.B. 52 - Permits minor to receive money or property not exceeding \$1,000 in value without appointment of guardian.

Senator Dodge explained that the rationale for this bill is that it would save time and money to have these handled without a guardianship since there wouldn't be too much abuse of the proceeds if turned over to the parents.

Senator Bryan remarked that there are two kinds of guardianships; one for a person and one for an estate, and felt that it should be specified that this bill pertains to a guardianship for a person.

Senator Dodge moved to amend and "DO PASS." Seconded by Senator Wilson. Motion carried.

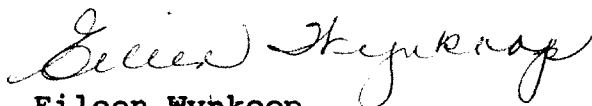
S.B. 81 - Prohibits the use of drugs, chemicals, poisons, or organic solvents as chemical stimulants of one's person unless used under the direction of a physician.

Senator Bryan testified that the Department of Narcotics had advised him that in the redraft of the Controlled Substances Act in consolidating Chapters 453 and 454, the provision covering glue sniffing had been inadvertently deleted. This bill would restore that provision. He did suggest contacting someone from the Narcotics Division to testify further on this bill.

Chairman Close announced a public hearing on the death penalty bills for Thursday, February 15, 1973.

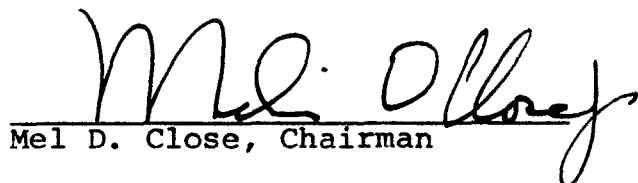
The meeting was adjourned at 10:45 a.m.

Respectfully submitted,



Eileen Wynkoop  
Secretary

APPROVED:



Mel D. Close, Chairman

