

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING HELD

22nd DAY OF FEBRUARY, 1973

The meeting was called to order at 9:35 a.m. Senator Close in the Chair.

PRESENT: Senator Foley
Senator Bryan
Senator Dodge
Senator Hecht
Senator Swobe
Senator Wilson
Mr. Gary Hill, U. S. Jaycees
Mr. Fred Hoover, Dept. of Justice
Mr. Jim Cooper, U. S. Bureau of Prisons
Mr. Robert Rose, District Attorney, Washoe County
Mr. Larry Hicks, Chief Criminal Deputy, Washoe
County District Attorney's Office
Mr. John Meder, Carson City County Commissioner
Mr. Keith Henrikson, Peace Officers & Fire Fighters

A.B. 32 - Authorizes work release program for state Prisoners.

Mr. Gary Hill, representing the United States Jaycees as a consultant on crime and correctional facilities, spoke in favor of this bill, which would authorize the establishment of a work release program for prisoners in the Nevada State Prison.

A work release program would enable an incarcerated man, after a thorough screening process, to work within the community and receive wages, then return to a controlled facility at night. This program has been recommended by a number of professional organizations and has been studied for a number of years. The program is now in use in several other states. Statistics based on North Carolina's program showed that 116,700 were released on work-release programs. Of those released, there were 1,525 who were removed from the program for violations: 98 percent of those violations were violations of procedure, such as returning to the facility late, leaving the prescribed area, drinking while on release, etc. Only 30 individual crimes were reported. Statistics from Massachusetts show that this program is twice as effective with regard to recidivism (getting out of an institution and committing another crime).

From a cost standpoint, the prisoner on work release will pay for his own room and board, transportation and take care of his dependents. The bill would provide that he pay the penitentiary, or facility he is living in, for room and board.

The State of Nebraska has projected that it will cost them \$1,388,000 less under the work release program than it currently costs to house prisoners in an institution. It currently costs \$3,500 per man inside the institution, but only costs them \$135 per man on the street because of the probation supervision required.

Senator Wilson asked Mr. Hill what type of program has been developed for finding jobs and placing prisoners in employment situations. Mr. Hill replied that there are two approaches. The first one, which he feels doesn't work as well, is to have the state hire job placement counselors who talk with the prisoners and community businesses and then tell the prisoner where he will work. The second, as is outlined in A.B. 32, would release the prisoners on a temporary leave to seek employment on their own. The Jaycees have indicated that they will personally work with the men and the parole and probation department in helping the prisoners seek employment by getting them interviews with companies that will hire prisoners. The Jaycees will perform this service at no expense to the state.

Lieutenant Fred Hoover, San Mateo County, who was invited to appear as a representative of the Department of Justice and Law Enforcement Assistance at Mr. Campos' request, testified in favor of this bill. He reminded the committee that the bill refers to prisoners who are about to get out of prison. A man in prison has usually lost all or most of his contact with the outside and it is important that he be stable when he does get out. The work release program would enable him to have some money to fall back on, and some contact with the community, when he does get out.

Senator Bryan asked Mr. Hoover if he felt that A.B. 32 was structurally sound. Mr. Hoover replied that the only objection he could see is the provision that a prisoner pay for the cost of his room and board. He felt that the prisoner should not have to pay the whole cost for room and board, but should pay a portion of the cost. In San Mateo County the state prisoners are charged \$4.90 a day, 7 days a week. The county inmates are charged according to a sliding scale based on the income they make for the days they work. Their cost for the extra staff to administer this program is \$38,000. Maintenance fees turned over to the county were \$88,000.

Members of the committee asked Mr. Hoover about the escape rate and the rate of success for drug offenders. Mr. Hoover replied that escapes run under 1 percent. Drug users, for the most part, are successful. He made the observation that 19 out of 20 heroin users were successfully rehabilitated while on the program, but almost all returned to drugs after they finally got out of prison. Prisoners with alcohol and drug dependence problems function very well under close supervision.

Mr. Jim Cooper of the United States Bureau of Prisons then spoke in favor of the bill. He works with prisoners after they are released under a work-release program. There are two main points a prisoner worries about when finally released: 1) having a job to go to and 2) having money to live on until he can get a job. Under the work-release program he would be able to save money and get a better paying job.

The figures on the work release program on Terminal Island, for one year, show an average of 67 people per day are going on the program. Of that number, there have been 17 escapes in the year's time. During that time, they made a net income of \$124,650 and saved \$53,752.

Mr. Cooper also handles federal releases in Clark County, where he recently spent two days working with nine prisoners. He made nine calls to local businesses who agreed to interview the prisoners and hire them if they were qualified. Before he left Las Vegas, three of the nine men were hired. This does show that the community is receptive to the program.

S.B. 199 - Expands definition of "public officer" to include employees and other staff of public boards for purpose of penal statutes.

Mr. Rose, Washoe County District Attorney, and President of the Nevada District Attorneys' Association, testified that there is presently a statute that makes "taking a kickback" a crime for a public officer. The District Attorney's Office had a case where an employee of a county board was taking kickbacks, but when they tried to prosecute the employee, the judge ruled that the definition of public officer does not cover employees of county or municipal boards. They lost the case even though the evidence did sustain the crime.

Senator Wilson felt that the bill was not broad enough and should be amended to include all political subdivisions, quasi-municipal boards, etc.

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Mr. Rose had no objection so an amendment will be requested from the bill drafter.

S.B. 203 - Expands definition of public nuisances
and enlarges powers of district attorney
and board of county commissioners to
abate them.

Mr. Rose testified that with this bill they are seeking to expand their power to proceed civilly to abate nuisances and to expand the definition of public nuisance to include violation of county and city ordinances; such as plumbing codes, zoning codes, etc.

Presently, their only civil remedy under 244.060 would be to appear before the county commissioners who would sit as a court with the district attorney representing the city or county. They would hear evidence as to whether the violation was a nuisance and, if so, would order it abated. This procedure is a dubious delegation of the authority of the county commissioners.

They do have the authority to proceed in a criminal suit under 202.450 for a misdemeanor. Rather than file a criminal suit, they would prefer, in most instances, to proceed civilly.

Subsection 5 of the bill provides the district attorney with an alternative of not having to go through the county commissioners, if a complaint is made directly to him. Senator Close objected that this bill would broaden the powers of the district attorney's office to make any violation of an ordinance a criminal offense. Senator Bryan pointed out that lines 4 - 12 on page two provides additional criminal offenses which are not taken from 40.140. The provisions of 40.140 do not presently constitute a criminal offense, but defines nuisance in the civil sense. Mr. Rose remarked that it was not his intention to broaden the language of the criminal aspect.

Senator Wilson asked if the time period for obeying notice to abate within 5 days in subsection 5 on page 3, wasn't too restrictive. He suggested leaving the time factor to the discretion of the district attorney or the court, depending on the gravity of the situation.

Mr. John Meder representing the Carson City County Commissioners Association, endorsed this bill because it would provide a shorter time period to abate than transpires when handled by the county commissioners, who meet only twice a month.

Mr. Keith Henrikson, representing the Peace Officers and Fire Fighters Association, agreed with the concept of not locking in a specific time period, but felt that some time period should be specified and suggested the wording "obeyed in not less than one day."

S.B. 221 - Encourages persons accused of possessing controlled substances to assist in conviction of suppliers.

Senator Bryan informed Mr. Rose of the objection the committee had to this bill. It would require the possessor give evidence leading to the arrest and conviction before he enters a plea of guilty or is found guilty, and having the possessor's sentence reduced only if the supplier were arrested and convicted.

Mr. Rose remarked that the bill might not be essential since this procedure is in practice now, and might, in fact, restrict this practice. He testified that presently the courts are very responsive to prosecutors' recommendations of lesser punishment because of the defendant's cooperation.

S.B. 244 - Provides for random selection of grand jurors by county clerk or jury commissioner.

Mr. Rose testified that the District Attorneys' Association has taken no position on this bill, but he is very strongly in favor of random selection of grand jurors. He stated that he is also in favor of the concept of two types of grand juries; one for investigation and one for indictments.

S.J.R. 10 - Proposes to amend section 14 of article 5 of the Nevada Constitution to permit the Legislature to enact laws enabling the justices' and municipal courts to suspend sentences and grant probation.

Mr. Rose asked Mr. Larry Hicks, his Chief Criminal Deputy, to testify on this bill. Mr. Hicks stated that perhaps the bill was too broad, in that judges might have a tendency to grant probation in too many cases, but he felt there are cases that come through the courts where there should be allowance for probation and suspended sentences.

Senator Wilson asked Mr. Hicks if perhaps spelling out the types of crimes which should be covered might limit the bill sufficiently. Mr. Hicks replied that the spectrum of misdemeanors is too broad to be limited.

Mr. Rose was then asked to testify on the scope of application he endorsed for the reestablishment of a death penalty. Mr. Rose gave his support to A.B. 265, and indicated three areas where he felt the death penalty should apply. Those areas are: 1) as a deterrent to first degree murder accomplished with premeditation and deliberance, including contract murders and deliberate murder in the perpetration of a felony; and 2) to give protection to police officers, justices, judges, and prison guards in their duties as law enforcement officials when wearing a uniform or identifying themselves as law enforcement officials, 3) crimes shocking to society, such as mass murders, bombs and explosives set in public buildings or in airplanes.

Mr. Rose also indicated his endorsement of the concept of a work-release program.

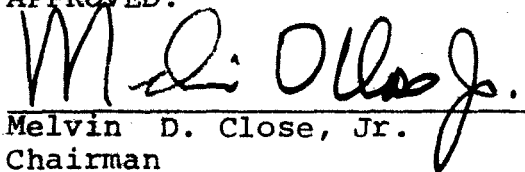
The meeting was adjourned at 11:00 a.m.

Respectfully submitted,



Eileen Wynkoop
Secretary

APPROVED:



Melvin D. Close, Jr.
Chairman