

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING HELD

26th DAY OF FEBRUARY, 1973

The meeting was called to order at 9:40 a.m. Senator Close in the Chair.

PRESENT: Senator Foley
 Senator Bryan
 Senator Dodge
 Senator Hecht
 Senator Swobe
 Senator Wilson
 Mr. Richard Bortolin, Deputy Attorney General
 Col. Robert Burns, Assistant Adjutant General
 Assemblyman Zel Lowman
 Assemblyman Roy Torvinen
 Mr. Doug Erickson, Regional Association of Bail
 Bondsmen
 Mr. Jay McIntosh, General Insurance Agent
 Ms. Sharon Greene, Executive Director, Nevada
 Hospital Association
 Col. James Lambert, Supervisor, Motor Vehicle
 Dept., Highway Patrol Division
 Mr. Howard Hill, Director, Dept. of Motor Vehicles

A.B. 171 - Reorganizes military court system in accordance with the Uniform Code of Military Justice.

Mr. Bortolin testified that this bill is an attempt to bring Nevada's military code into conformance with the uniform code of military justice on a federal level. The changes would make the whole military system more like civilian courts than ever before.

The bill provides that a military judge, defined in Section 3 as a commissioned officer licensed to practice law in this State, would replace a law officer in general and special courts-martial

A.B. 173 - Makes certain changes in the qualifications for counsel at courts-martial under the Nevada Code for Military Justice.

Mr. Bortolin testified that this bill was an attempt to eliminate any possibility of bias or prejudice by conforming NRS 412.336 to the uniform code. It would provide that no individual be appointed as trial or defense counsel if he has acted as an investigating officer in the same case.

Senator Wilson felt that the provision in Subsection 5 requiring counsel to be licensed to practice law in the State of Nevada might be so restrictive as to preclude the defendant from hiring a lawyer from another state. He suggested amending Subsection 5 by adding the language contained in lines 13 and 14 on Page 1 (to be deleted by this bill): Counsel for general and special courts-martial shall be a person who is a member of the bar of the highest court of a state, or a member of the bar of federal court.

Senator Dodge moved to amend and "DO PASS." Motion seconded by Senator Swobe. Motion carried.

A.B. 215 - Provides accused national guardsman with the right to counsel upon interrogation.

Mr. Bortolin testified that this bill would provide counsel for the accused, whether that counsel be appointed by the military or a civilian lawyer chosen and paid for by the accused.

Senators Wilson and Dodge asked Mr. Bortolin where in the code is the defendants right to counsel defined. Mr. Bortolin cited the pre-trial procedures in NRS 412.344 and the duties of the trial counsel and defense counsel in NRS 412.364.

Senator Bryan moved "DO PASS." Motion seconded by Senator Swobe. Motion carried.

A.B. 34 - Increases the penalty for battery upon a peace officer.

Assemblyman Zel Lowman testified that this bill proposes to increase the penalty for battery committed on a peace officer to a felony.

Chairman Close asked Mr. Lowman if he had compared this bill to S.B. 64 which was passed out of committee on 1/31. When Mr. Lowman compared the bills he agreed that S.B. 64 does cover this bill and even goes beyond it to pertain to all citizens.

The committee agreed to hold this bill indefinitely until the Assembly takes some action on S.B. 64.

A.B. 68 - Broadens authority of peace officers
to issue misdemeanor citations in lieu
of making arrests.

Assemblyman Roy Torvinen explained that this legislation came about because city attorneys throughout the state had different opinions as to whether or not police officers could issue citations for non-traffic violations. The effect of this bill would be to allow citations in misdemeanor cases, especially for such violations as building codes, littering, and animals running loose and in certain intersection accidents, where it would be less costly and time consuming than booking and releasing the accused on bail. This bill has received the support of city attorneys, police officers, and the Recreation and Parks Department.

Mr. Doug Erickson asked to go on record as opposing this bill on the grounds that it would encourage "no-shows" and was not in the public interest. Presently bondsmen screen defendants and keep track of them until their trial date. With this bill the defendant would be less likely to respect a citation than they would be if they had to post bail.

Mr. Jay MacIntosh was also opposed to this bill. He felt it would create a monster with regard to "no-shows" because there are so many out-of-state visitors that would be effected by the bill. To deny them the same opportunity of receiving a citation in lieu of bail could be unconstitutional.

Senator Bryan asked Mr. MacIntosh and Mr. Erickson if there were any statistics from other jurisdictions that would indicate an increase in "no-shows" with non-resident offenders. Mr. Erickson left what statistical information he had with the committee for their perusal.

S.B. 254 - Provides that subpoena for medical
records may be satisfied by production
of copy of original records accompanied
by proper authentication.

Sharon Greene testified that this bill would allow for copies of medical records to be copied and delivered in person or mailed to the court clerk, authenticated and held for trial. Presently a majority of the attorneys require the medical records librarian to testify at the trial. Librarians are paid \$12,000 to \$15,000 a year and might sometimes have to spend 2 weeks waiting in the halls of the courtroom until they are called to testify. There is a provision in the bill on Page 3, Section 5 for the courts to subpoena the original document and have the librarian testify if there is a question of interpretation.

Ms. Greene also pointed out a problem that occurred in one instance where the court has kept medical records which were subpoenaed in 1966 and the hospital has not been able to get them back.

Senator Dodge requested Ms. Green to research this type of legislation with other states to determine if it has caused any problems and how well the mechanics work. Ms. Greene agreed to do so and will report back to the committee at a later date.

S.B. 159 - Creates the crime of careless driving.

This bill was re-referred to this committee from the Transportation Committee. Senator Dodge gave the committee some background on the action taken by the Transportation Committee. They had testimony that most municipalities have provisions for traffic misdemeanors called careless driving which were created by city or county ordinance. It provides a remedy for situations where the charge of reckless driving would not be appropriate and carries only 6 demerit points rather than 8 demerit points for reckless driving. The Transportation Committee referred the bill to this committee because they had some trouble defining the areas to which this should apply.

Mr. Lambert testified that at the present time, cities and counties have ordinances covering many degrees of careless driving which were instituted to moderate the charge of careless driving and those ordinances are being used. However, the Highway Patrol has to get away from the State law and use the city and county ordinances in order to get a prosecution through the courts. Reckless driving provisions were generated with speed connotations and would not apply to a situation where a motorist might be within the speed limit but driving carelessly considering the road or weather conditions.

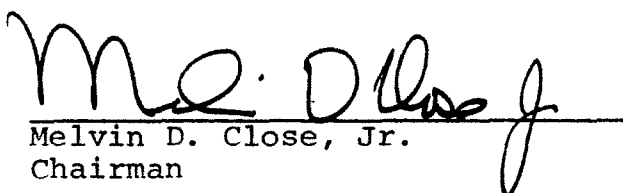
Mr. Howard Hill remarked that the cities and counties who have provision for careless driving find it very helpful, and they would like to have this flexibility on a state level. Presently, they have to cite for reckless driving or not at all.

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

Respectfully submitted,


Eileen Wynkoop
Secretary

APPROVED:


Melvin D. Close, Jr.
Chairman