

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING HELD

45

8th DAY OF FEBRUARY, 1973

The meeting was called to order at 9:45 a.m. Senator Close in the Chair.

PRESENT: Senator Foley
 Senator Bryan
 Senator Dodge
 Senator Hecht
 Senator Swobe
 Senator Wilson
 Assemblyman Zel Lowman
 Warden Carl Hocker, Nevada State Prison
 Mr. Gene Coughlin, Nevada State Prison
 Mr. A. A. Campos, Parole & Probation Dept.
 Lt. Wiley Peebles, Nevada State Prison

A.B. 29 - Prohibits fraudulently obtaining or
 procuring controlled substances.

Mr. Lowman explained that this bill originally came out of the study on narcotics and dangerous drugs in 1968 and has been carried over from several sessions since he has not been able to convince the 2 Judiciary committees that a fraudulent provision is specifically required for controlled substances rather than being left to the general fraud provisions. Mr. Lowman stated that this bill was aimed at two situations: 1) At the physician who is making money off drugs by giving prescriptions unnecessarily and knowingly to drug offenders, and 2) at the person who would steal prescription blanks, forge a doctors name, and purchase the drug at the pharmacy. Several members of the committee felt that this bill would not address the doctor as was intended, since, as Senator Bryan pointed out, if the doctor and patient were working in concert it would be difficult to prove default. Senator Wilson remarked that a doctor could be prosecuted under a malpractice suit.

Senator Bryan asked Mr. Lowman if the committee that studied narcotics and dangerous drugs in 1968 had any testimony relative to the problem the doctor-patient privilege could cause with this statute. Mr. Lowman replied that he did not recall any testimony, but would examine the report of the study further.

S.B. 146 - Clarifies provisions for preconviction
time credits in criminal sentences.

Warden Hocker explained that in essence, this bill would allow preconviction time credits at the end of the sentence rather than in the beginning, as the judges are now allowing them, and would require the court to specify the exact amount of time to be credited. Mr. Gene Coughlin stated that they have received numerous attorney general opinions stating that they cannot apply these credits retroactively and move the sentence date back.

Senator Wilson felt that the language "the end of such sentence" is not suitable to the statute and felt wording such as "sentence imposed shall begin upon the day the sentence is imposed by the court" would be better.

Mr. Campos stated that NRS 176.335 states that the term of imprisonment begins on the date of sentence by the court. NRS 176.055 would allow the credit against the sentence, "including a minimum term thereof." He stated that judges reason that 176.335 has precedence but that 176.055 supercedes that section since it was added in 1971. This would provide that if a person were to only receive a minimum sentence, he can still get credit of county jail time and the judge holds that this can be applied against his parole eligibility. He asked that Section 176.055 be amended to include the wording "subject to the provisions of 176.335."

S.B. 147 - Enlarges class of persons who may be
sentenced to concurrent terms of im-
prisonment.

Warden Hocker explained that as the statute now reads, it is mandatory on the second offense that sentencing run consecutively. He said it is the opinion of the prison officials that it should be the prerogative of the court to designate whether the sentencing should be concurrent or consecutive, depending on the gravity of the offense.

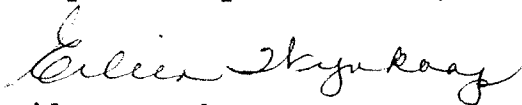
After much discussion, the committee determined that a person convicted of a second felony while on parole, should have his sentencing run consecutively. However, for a misdemeanor or gross misdemeanor, they felt it should be descretionary with the court to sentence consecutively or concurrently. Under the present statute, a man on parole who committed a gross misdemeanor, would have to go back to the state prison and serve out the full time of the original sentence before beginning the second sentencing and parole eligibility.

Senator Bryan suggested amending NRS 212.200 to provide that "any person under sentence of imprisonment for a felony not expired, commits any crime of offense constituting a felony" shall be sentenced consecutively.

Lt. Peebles asked if this would deprive a judge of running sentencing concurrently when imposing a Nevada sentence to another sentence in another state. Senator Wilson felt that there should be no distinction between a Nevada sentence and a sentence imposed by another state or the federal courts. Several other questions arose concerning this matter, and discussions will continue at a later date.

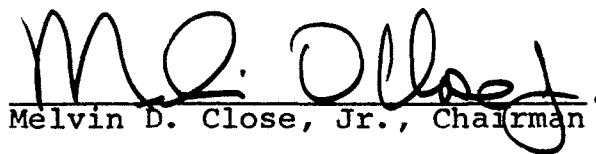
The meeting was adjourned at 11:00 a.m.

Respectfully submitted,



Eileen Wynkoop
Secretary

APPROVED:


Melvin D. Close, Jr., Chairman