

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING HELD

13th DAY OF MARCH, 1973

The meeting was called to order at 9:20 a.m. Senator Close in the Chair.

PRESENT: Senator Foley  
Senator Bryan  
Senator Dodge  
Senator Hecht  
Senator Swobe  
Senator Wilson

Sharon Greene  
Howard Hill, Director, Dept. of Motor Vehicles  
Frank Daykin, Legislative Counsel Bureau

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 reported to the committee that she had researched other states for similar statutes and found that Oregon and California do have similar laws. California has included all business records rather than just hospital records.

Senator Foley stated that he could see a problem of storage of these duplicates by the county clerk, and the responsibility put on the clerk to have a notary certify the copies.

Senator Close replied that in some cases the clerk would be dealing with original records. Frank Daykin suggested that a new section regarding depositions be inserted which states that the copy be delivered for deposition to the party concerned and then returned to the clerk. These records would be kept in a separate file and clearly marked.

Senator Bryan moved to amend and "DO PASS." Motion seconded by Senator Wilson.

Yeas - 6  
Nays - Foley (1)

Motion carried.

A.B. 35 - Limits the period of time during which a person may have his driver's license revoked for subsequent convictions of driving "under the influence."

Mr. Howard Hill testified that the bill was intended to set a time limit of 10 years for previous drunk driving convictions.

Senator Swobe felt the bill should be amended to lessen the time limit from 10 years to 7 years. Senator Hecht made a motion which was lost for lack of a second to amend to 5 years.

Senator Swobe moved to amend to 7 years and "DO PASS." Motion seconded by Senator Dodge.

Yeas - 6  
Nays - Close (1)

Motion carried.

S.B. 387 - Permits nurses to refuse to participate in performance or induction of abortions.

Sharon Greene testified that this bill would allow nurses and other employees in hospitals to refuse participation in abortion procedures without liability. The committee felt that the bill should apply not only to nurses, but to private hospitals also.

S.B. 342 - Amends provisions relating to controlled substances.

Frank Daykin testified that this bill is a technical correction bill which deletes the words "this chapter" and inserts the section references in Chapter 453. The only non-technical change occurs in Section 25 of the bill where refill prescriptions are limited to 5 times within 6 months, the section was amended to be limited to Schedules III, IV and V. Senator Bryan felt that would be inappropriate and asked Mr. Daykin to amend the language back to apply to all controlled substances. Mr. Daykin replied that would be easy to do by just eliminating that section from the bill, thereby leaving the law as it presently is.

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

S.B. 262 - Provides for electronic interception of communications.

Senator Close asked Mr. Daykin for an opinion on how far law enforcement could go on an illegal wiretap. If the tapping agency had found the evidence it was seeking before the court order ran out, could they keep listening for further evidence, and if they discovered evidence of another crime, would it be admissible.

Mr. Daykin replied that if the warrant were limited with respect to the area it covered, the agency would have trouble in admitting anything outside that area into evidence. On the other hand, the warrant must be reasonably specific in what it authorizes.

S.B. 260 - Prohibits wiretapping and other interceptions of private communications.

Senator Hecht moved "DO PASS." Motion seconded by Senator Bryan.

Yeas - 2

Nays - Close, Dodge, Foley, Swobe, Wilson (5)

Motion lost.

Senator Foley moved to indefinitely postpone action on this bill since S.B. 262 answers the problems of illegal wiretaps and is supported by law enforcement. Senator Dodge seconded the motion.

Yeas - 5

Nays - Bryan, Hecht (2)

Motion carried.

S.B. 316 - Grant privilege against disclosure for certain communications between students, counselors, and teachers.

Senator Dodge objected to this bill stating that the legislature should not extend privileged communications beyond the present concept because other groups will come in and ask for the same privilege. Senator Wilson objected that the amendment he suggested would remove the thrust of the bill from the common law privilege concept and limit it to a counselor not being obligated to testify.

Senator Hecht stated that he does not agree with the concept of the bill. Senator Close stated that he didn't feel the bill would accomplish as much as the counselors expected to accomplish, but on the other hand did not feel it would do any harm to exempt them from testifying in court.

S.B. 341 - Regulates dangerous drugs.

Frank Daykin testified that the intent of drafting the bill was that deletion of the Dangerous Drug Law was not fully comprehended at the time the Uniform Controlled Substances Act was enacted. Mr. Daykin felt there is a serious question of whether the Controlled Substances Act quite covers everything that conceivably is a dangerous drug.

Senator Bryan noted that Section 42 on Page 7 had been deleted 3 session ago. Mr. Daykin felt that was correct and stated that it does not correspond to the former law. Mr. Daykin assured the committee that Sections 8 through 41 are a re-enactment of the Dangerous Drug law as it stood prior to its repeal. Section 1 through 3 are amendments which restore language which was deleted by amendment.

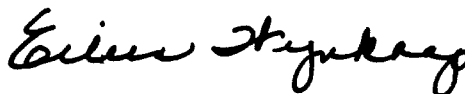
Senator Swobe moved to delete Section 42 and "DO PASS" as amended. Motion seconded by Senator Dodge. Motion carried.

S.B. 28 - Technical amendment deleting reference to repealed law and alerting recipients of wiretap orders of further statutory requirements.

Senator Dodge moved to indefinitely postpone action on this bill. Motion seconded by Senator Foley. Motion carried.


The meeting was adjourned at 11:10 a.m.

Respectfully submitted,



Eileen Wynkoop  
Secretary

APPROVED:

  
Melvin D. Close, Jr.  
Chairman