

SENATE JUDICIARY COMMITTEE

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MINUTES OF MEETING HELD

23rd DAY OF MARCH, 1973

The meeting was called to order at 8:30 a.m. Senator Close in the Chair.

PRESENT:

Senator Bryan  
Senator Dodge  
Senator Hecht  
Senator Foley

Charles Thompson, Deputy District Attorney,  
Las Vegas  
Frank Daykin, Legislative Counsel Bureau  
Wallie Warren, Nevada Banker's Association  
Judge ~~Mendoza~~, 8th Judicial District Court  
George Miller, Welfare Division  
Juanita Blankenship, Clark County Commissioner  
William LaBadie, Deputy Administrator, Welfare  
Division  
Gloria Hanley, Family and Children Services,  
Welfare Division  
Ned Sullivan, Clark County Juvenile Court

EXCUSED:

Senator Wilson  
Senator Swobe

S.B. 313 - Amends provisions for attachment and garnishment, providing constitutional requirements of notice and hearing and making other substantive and technical changes.

Mr. Thompson testified that the attachment and garnishment laws need to be changed because they violate three constitutional concepts decided by the supreme court. This would provide a valid attachment procedure on the statutes which is not presently available. Senator Dodge suggested making the bill effective upon passage and approval.

Mr. Daykin agreed with the testimony of Mr. Thompson and suggested incorporating the provisions of claims and delivery contained in A.B. 273 into this bill. The committee agreed that those provisions should be integrated, but decided to wait until action is taken on A.B. 273. If the Assembly does not pass that bill, the committee will request another bill of its kind.

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

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Yeas - 5  
Nays - None  
Absent - Wilson, Swobe (2)

Motion carried.

S.B. 292 - Gives certain farm suppliers  
and contractors liens on land  
benefited.

Mr. Warren testified that several banks have expressed their opinion that enactment of this bill or A.B. 338 would end bank financing.

Senator Dodge agreed that this bill would not be a logical extension of the lien law.

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

Yeas - 5  
Nays - None  
Absent - Swobe, Wilson (2)

Motion carried.

S.B. 253 - Provides extensive changes in  
juvenile court procedure and  
avoids unnecessary use of cri-  
minal labels for delinquent  
children.

Chairman Close read the amendments proposed thus far for this bill.

Section 3, Page 3 lines 16-20 would be deleted which required that a probation officer should not be placed in the position of prosecuting attorney. The small counties felt that this would require additional monies and staff for the district attorney. Judge Mendoza argued with the concept of having a probation officer be the child's prosecutor but agreed to the amendment deleting that provision if it would put the thrust of the bill in jeopardy.

The next amendment was suggested by the county commissioners because they objected to the juvenile court judge setting the salary for the director of Juvenile Services, subject to the consent of the county commissioners. Juanita Blankenship represented the county commissioners in Clark County to object to that provision and support an amendment which would allow the county commissioners to set this salary. Judge Mendoza argued that the Juvenile Court sets all the staff salary subject to the approval of the county commissioners. This provision would merely conform 62.115, which

allows the salaries set by the juvenile court judge for probation officers and all others on staff in the juvenile court system, except the director of juvenile services to 62.123, including the director. This would only apply to Clark County. Senator Bryan and other members of the committee felt that the power given to the commissioners in 62.123 to consent in the decision of the judge is the only power they need to control salaries. Mrs. Blankenship stated that she was not aware of the powers given the judge in 62.115.

The other amendments were those suggested by Judge Barrett to conform the language used to the concept of the Juvenile Court System.

Mr. George Miller, Mr. LaBadie and Mrs. Hanley again presented testimony that the Welfare Division was not equipped to handle the additional load of children they felt would be sent to them under the category of "children in need of supervision." Mr. LaBadie suggested amending the wording used in A.B. 724 into this bill to provide that before disposition, the Welfare Division would have to be present at a hearing which would determine whether or not the child would be referred to the Welfare Division. Mr. Miller stated that this provision would be acceptable to him and Judge Mendoza agreed.

Another amendment would make the language encouraging separate facilities for "children in need of supervision" and "delinquent children" more permissive since it would be a burden on the smaller counties to provide that separation in some cases. The language was changed to "Wherever possible, special efforts shall be made."

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

Yeas - 4  
Nays - None  
Absent - Dodge, Swobe and Wilson (3)

Motion carried.

S.B. 271 - Changes provisions of divorce  
and family law.

Senator Bryan suggested holding this bill until the Assembly Bill dealing with the divorce provisions is acted on.

Senator Foley moved to indefinitely postpone further action. Motion seconded by Senator Hecht.

Yeas - 4  
Nays - None  
Absent - Dodge, Swobe, Wilson (3)

Motion carried.

S.B. 450 - Permits court to allow jury  
to separate after it retires  
to deliberate.

Senator Bryan asked the committee to reconsider the action taken on March 22. He is concerned because jurors have a great temptation to find evidence not before the court; i.e. to take a ride to the site of a crime. He suggested that permission to separate be given to the jury only after submission and before deliberations.

The committee will discuss further action on S.B. 450 at a later meeting.

S.B. 393 - Provides for escheat of corporate  
property to State of Nevada after  
forfeiture or default for certain  
period of time.

The committee felt that this bill would have far reaching implications since it affects a tremendous body of law.

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


Yeas - 4  
Nays - None  
Absent - Dodge, Swobe, Wilson (3)

Motion carried.

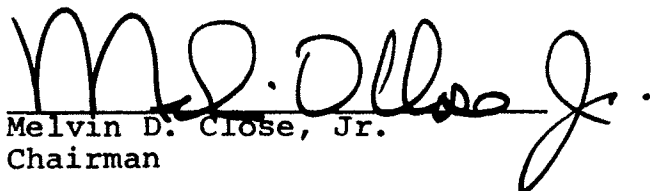
After further discussion, the committee decided to hear further testimony on this bill.

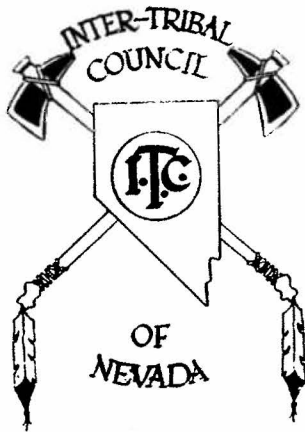
The meeting was adjourned at 10:50 a.m.

Respectfully submitted,

  
Eileen Wynkoop  
Secretary

APPROVED:

  
Melvin D. Close, Jr.  
Chairman



Attachment

# INTER-TRIBAL COUNCIL OF NEVADA

SOCIAL SERVICES PROGRAM

2049 CALIFORNIA STREET ♦ CARSON CITY, NEVADA 89701

TELEPHONE (702) 882-6663

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March 19, 1973

## MEMORANDUM

**TO:** Honorable Melvid D. Close, Jr., Chairman, and Members of  
Senate Committee on Judiciary, Nevada State Legislature

**FROM:** Inter-Tribal Council of Nevada Social Services Program

**RE:** S.B. 253, Relating to Juvenile Court Procedures

This is to advise you of our support of the basic concept of avoiding unnecessary and inaccurate labels seriously detrimental to children requiring juvenile court services. We also agree that a clear cut distinction should be made between children who are neglected, in need of supervision, or in need of commitment to an institution for the mentally retarded and those children who commit a delinquent act. Generally a child termed delinquent is equated with being a juvenile criminal. A stigma is attached which affects the child's acceptance at school, by his peers, and by neighbors in the community. Oftentimes when a child is labeled as "criminal" it becomes a self-fulfilling prophecy. The child in need of supervision has social, emotional, or educational problems and has exhibited behavior that may not have any criminal connotation. It is unjust and harmful to such a child in need of supervision to be branded by any inappropriate label such as delinquent, incorrigible, etc.. When a child is neglected or in need of supervision, the responsibility for causes and remedies is duly assigned to the parents, guardians, schools and other segments of society, rather than placing the onus entirely on the neglected child or the child in need of supervision. The emphasis is on remedial or preventative action rather than punitive action. Effort can be focused on community treatment rather than on institutionalization or incarceration as the remedy of choice.

The provision of Section 3, item 3, beginning on page 3, line 16, is also supported. The probation officer should not have to fill the role of prosecutor. As an arm of the court he investigates, presents testimony as to facts, and makes recommendations for disposition, based on his professional expertise and concern for what best serves the interest of the child involved. To be identified as the prosecutor in the case would weaken his effectiveness in carrying out the normal functions of a probation officer. It would also pose problems in establishing rapport with the child and securing cooperation from the parents and others in the community.

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There has been some concern expressed that Section 5, item 3, on page 4 beginning with line 40, would increase the work load of a district attorney too greatly. The rationale being that his office would be involved every time a juvenile was handled. This is not necessarily so. Section 12 of the Act, item 1, on page 8 and beginning on line 24, provides that the probation officer is responsible for the initial investigation and to decide whether or not he feels a petition should be filed. In those cases where adjustment is possible short of a court appearance or where the facts do not warrant a filing of a petition in the opinion of the probation officer, there would be no need for involvement of the district attorney's office. The exceptions would be when the probation officer wanted counsel and advice from the D.A.'s office before making his decision, and when a complainant asked the D.A.'s office to review a complaint after the probation officer had recommended against a petition.

An amendment is proposed for Section 8, item 1, beginning on line 2 of page 6.. After "probation officer" and before "Unless" on line 6, insert the statement, "Such notification shall specify the allegations against the child, for which he is detained".

It is also recommended that consideration be given to amending the provisions of Section 12, item 4, beginning on line 44 of page 8. The time period of 10 days seems excessive for the filing of a petition. It would seem that five working days should be sufficient time to file a petition, except in very unusual circumstances. There could be provision whereby the probation officer could secure an extension of this time, not to exceed an additional five days, providing he could satisfy the court that such extension was justified. In many adult cases, the defendant has his first appearance in a court in less than 48 hours after apprehension. It is felt that a child is also entitled to his day in court without undue delay.

We thank you for the opportunity to present our testimony to the committee and trust due consideration will be given to our suggested changes in the bill.

By: Joseph J. Paradise  
Joseph J. Paradise, MSW, MC  
Supervisory Social Worker

Approved By: Joe Braswell  
Joe Braswell, MSW  
Program Director