

SENATE JUDICIARY COMMITTEE

309

MINUTES OF MEETING HELD

27th DAY OF MARCH, 1973

The meeting was called to order at 9:00 a.m. Senator Close in the Chair.

PRESENT:

Senator Foley
Senator Bryan
Senator Wilson
Senator Swobe
Senator Hecht
Senator Dodge

Judge Wendell
Bob List, Attorney General
Senator Cliff Young
Larry Hicks, Chief Criminal Deputy District
Attorney, Washoe County
Jim Thompson, Washoe County Chief Deputy Attorney
General
Ned Sullivan, Clark County Juvenile Court
Alan Bruce, Representing Associated General
Contractors

S.B. 510 - Repeals family court law.

Judge Wendell testified that during a meeting of district court judges in Clark County last February, it was moved and passed unanimously to have the Family Court Act repealed and a study made to see if other similar acts have worked in different jurisdictions.

Some of the problems that have been encountered with Nevada's Act are: Rules were adopted which required the court to be a court of conciliation, making it mandatory for divorcees to seek counselling services. The problem with this was whether this service should be provided by the county or city and what should it cost. Another problem was the time involved since right now the courts are hearing divorce cases within 60 days from the filing. Under the Family Court Act, divorcees would be compelled to seek services of the court and by the time the court would receive the reports back, the procedure would be delayed beyond 60 days. Since that Act only applies to Clark County, persons seeking divorce are going to other parts of the state because of the delays encountered in Clark County.

Another problem is the problem of funding and money. Five additional positions were incorporated in the Family Court for investigation and counselling services. Those positions were denied

by the county commissioners. Now the Family Court is without staff, programs or money.

Other problems faced with are what types of services should be provided, compulsory services, counselling services, etc.; should there be a director of Family Court services.

However, the biggest problem with the Family Court concept is that by attacking the problem in the court, the court becomes a social agency trying to solve marital problems which have been brewing for severally years. At such a late date, there are serious doubts whether or not this tactic works.

In 1972, 17,000 court cases were filed. Of that number, 7,942 cases were family court matters. One judge can not possibly hear that many cases. Therefore, many of these cases are set in other departments.

Judge Wendell suggested that the committee approve the repeal of this act and study other family court acts throughout the country to determine which procedure would work best for Nevada.

Senator Dodge moved "DO PASS". Motion seconded by Senator Foley.

Yeas - 5

Nays - None

Absent - Bryan, Hecht (2)

Motion carried.

S.B. 461 - Prohibits private practice of law by deputy attorneys general and certain district attorneys, public defenders, and their deputies.

Bob List commented on that portion of the bill contained in the first page, lines 9 through 13 as it affects his office. The present law provides that with the approval of the Attorney General, his deputies may engage in private practice. Until the time Mr. List took office, there were no formalized restrictions on who could practice and under what restrictions, except to avoid conflict of interest. The Attorney General's Office has since adopted regulations which prohibit deputies from private practice on state time. This would assure that the State gets a day's work for a day's pay.

When the budget for the Attorney General's office went before the money committees this session, they tentatively approved the budgets raising the salaries of the deputies about \$1,000 across the

board so that the average deputy is now making \$15,800 to \$19,500 a year.

The problem with this bill is that the budget does not contemplate doing away with private practice until January of 1975. Most of the staff would welcome the prohibition if it were accompanied by enough of a salary increase. If this legislation would eliminate private practice and do nothing to raise salaries, the Attorney General's office would have a great turn-over in personnel, the quality of the staff would decrease, and the victims would be the state agencies who are served.

Mr. List suggested changing the effective date of the bill to be July 1, 1975 so that when the legislature meets again in two years they can be sure that the proper salary increases accompany the prohibition of private practice.

Senator Young testified that there is a basic conflict between public service and private practice, there is no way to separate them or police them. The Legislature should address itself to the main problem of eliminating private practice and supporting whatever salary increases are necessary to make these positions competitive and professional.

Senator Young did agree with Mr. List that salaries would have to be raised, and the effective date should be changed to July 1, 1975.

There was further discussion on whether this bill should also include city attorneys. Mr. Larry Hicks testified that all public attorneys and the public defender draw from the same general pool of young graduates for their new employees. It would be a competitive disadvantage if the city attorney's office in Washoe and Clark Counties were excluded from the prohibition. Mr. Hicks further testified that the Washoe County District Attorney's Office is in favor of this bill, provided there are sufficient salary increases to accompany the prohibition.

Senator Dodge asked both Mr. List and Mr. Hicks what amount of money it would take to sufficiently compensate those people affected by this bill for the loss of private practice. Mr. List felt that the figure should be somewhere in the neighborhood of \$4,000 to \$5,000 per man; Mr. Hicks felt it should be \$3,000 to \$4,000 per man.

This bill would not apply to counties having a population of less than 100,000, so would limit the prohibition of private practice to Clark County, Washoe County and Carson City County since the smaller counties have a shortage of attorneys. The bill as amended would apply to deputy attorney generals (Mr. List testified that his salary has been raised to \$30,000 as of January 1, 1975, and he is

no longer allowed private practice), district attorneys and their deputies, county public defenders and their deputies, and city attorneys and their deputies.

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

Yeas - 6
Nays - None
Absent - Hecht (1)

Motion carried.

S.B. 497 - Imposes certain disabilities upon certain defendants honorably discharged from probation.

Larry Hicks testified that the original draft of this bill was not drawn as it should be. The bill is directed at those criminals who are released on probation for serious crimes such as attempted murder and attempted forcible rape, where probation is allowed. It would restrict them from carrying concealed weapons and require them to register with the sheriff as ex-felons.

Mr. Hicks stated that presently a felon who had received probation and was honorably discharged would have immunity under the law were he subsequently arrested for a crime involving a firearm. The cases where the courts are granting probation for serious crimes is increasing. Robbers are getting probation, persons convicted of sale of heroin are getting probation. The District Attorney's office feels it is not right for these criminals, especially drug offenders, to be allowed to carry firearms and not register with the sheriff after serving probation.

There were several amendments proposed which would remove the crime of statutory rape since it was not included in the original request and is not appropriate to this section; and to define correctly those crimes where the provisions would apply. Senator Dodge suggested that rather than leaving the prohibition of concealed weapons and the registration with the sheriff open-ended, it be conformed to the expungement statute. The expungement statute provides for expungement from felonies after 15 years.

Mr. Hicks proposed an amendment which would delete sub-section 2 and replace it with the following: "2. Dismissal of an indictment or information pursuant to subsection 1 as to any defendant who has been convicted of attempted murder, attempted kidnapping, attempted forcible rape, robbery, grand larceny, burglary, battery with the use of a deadly weapon, or sale of a controlled substance, does not, within a period of fifteen years from the date of the dismissal, relieve the defendant: (a) From the provision of NRS 202.360 or; (b) From the provisions of NRS 207.090."

He explained that Section 202.360 is the statute which prohibits defendants from carrying concealable firearms, and 207.090 requires ex-felons to register with the sheriff.

The committee felt that the inclusion of grand larceny in this statute should be eliminated since it is difficult to place a minimum or maximum amount this would apply to.

Senator Bryan remarked that he saw no difficulty in prohibiting concealed weapons in these cases, but did not see the policy reason for requiring the defendants to register with the sheriff for 15 years after having been honorably released from probation and all penalties and disabilities of the offense.

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

Yeas - 6
Nays - None
Absent - Hecht (1)

Motion carried. Senator Bryan reserved his right to oppose the bill on the floor.

S.B. 433 - Enables establishment of
juvenile delinquency pre-
vention program under di-
rection of juvenile court.

Mr. Ned Sullivan testified in favor of this bill stating that presently neither the Juvenile Court or any other agency has the responsibility of pointing out to the community the ways delinquency prevention may be accomplished. The court is frustrated because they only have the authority of secondary prevention rather than primary prevention.

Senator Dodge remarked that he had no quarrel with the bill, but wondered what the policy decision was for charging the judicial branch of government with the solution of social problems. Mr. Sullivan replied that the Juvenile Court will only be involved with the development of programs within the community, and developing temporary services so that the community can accept and carry on with them. He stated that they are not anticipating any large prevention programs within the court itself.

Senator Close suggested amending Line 12 from "shall" to "may".

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

Yeas - 6
Nays - None
Absent - Hecht (1)

Motion carried

S.B. 431 - Changes certain appearance
procedure in applying to
State Contractors' Board
for licenses.

Mr. Alan Bruce testified before the committee that the problem which prompted this bill was that under the existing licensing law of the Contractors' Board, a person lacking in knowledge of a certain skill, may apply through a responsible managing employee (RME) for a license in that skill provided the RME takes an active part in the business. Once the license is granted, there is no further knowledge of whether the RME is actively engaged in management or has left the company even though the licensee is required to notify the Contractors' Board within 30 days and has another 30 days to advise the name of a new RME.

Mr. Bruce stated that he is not sure that the passage of this bill would provide the total answer, but it would at least insure, since the RME would be required to be an officer of the corporation or a partner in the partnership, a greater degree of permanency in that the RME would have some stake in the successful operation of the contracting firm.

Senator Close felt that the bill did not alleviate the problems testified to since there were many ways of circumventing the intent. Senator Bryan agreed and felt that the intent might better be accomplished by imposing sanctions upon the holder of the license if he does not notify the Board that the original RME has left the organization and does not hire another RME in his place. He felt the sanctions might include a fine and/or revocation or suspension of his license.

Mr. Bruce will discuss this proposal with the Contractors' Board and if acceptable, will submit further amendments.

S.B. 479 - Expands jurisdiction of State
Board of Parole Commissioners.

Senator Wilson testified that this bill arose out of previous discussion on parole jurisdiction, and would provide for jurisdiction over parolees for the maximum sentence under the statutes. The words "maximum limit" referred to in Line 13 should be changed to "maximum term" in order to clarify the meaning.

The committee also agreed to apply this post-parole jurisdiction only to felony offenders rather than applying it to "any public offense under NRS 200.010 to 200.481."

Senator Close asked if the bill should mandate the Board to exercise this jurisdiction or make it permissive. Senator Wilson remarked that the Board has the latitude to determine how often

parolees should report, and felt that would provide enough flexibility.

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

Yeas - 6
Nays - None
Absent - Swobe (1)

Motion carried.

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

The committee had requested a new bill covering the grand jury selection system.

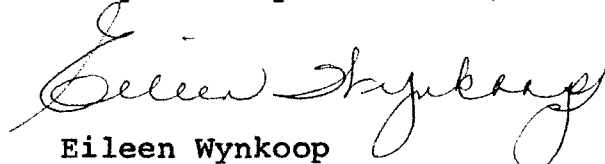
Senator Hecht moved to indefinitely postpone action on this bill. Motion seconded by Senator Dodge.

Yeas - 6
Nays - None
Absent - Swobe (1)

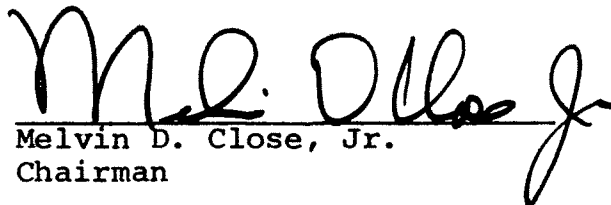
Motion carried.

The meeting was adjourned at 10:55 a.m.

Respectfully submitted,


Eileen Wynkoop
Secretary

APPROVED:


Melvin D. Close, Jr.
Chairman