

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING

FEBRUARY 28, 1975

The meeting was called to order at 8:35 a.m. Senator Close was in the chair.

PRESENT: Senator Close
 Senator Wilson
 Senator Foote
 Senator Sheerin
 Senator Dodge
 Senator Bryan
 Senator Hilbrecht

ABSENT:

SB 214 Restricts conditions under which defendant may appeal from judgment in criminal action tried before justice of peace.

Carl Lovell, City Attorney, Las Vegas stated that the problem, from the viewpoint of the prosecution, police department and administratively, is that they are having to prepare twice for one case - once in the justice of the peace court and then once again in the municipal courts because the defendant will plead guilty or nolo contendere in order to have the case heard higher. He suggested amending by adding on line 9 "justice of the peace, for the purpose of review of any sentence and/or fine imposed only and not any plea entered".

Senator Hilbrecht replied that this would not reach the problem in that you are raising a technical legal defence and suggested filing a statement of legal position. This would not take up the court's time and would apprise your office of the fact that the defence would be a technical one.

Mr. Lovell agreed and suggested that perhaps a legal document could be filed sometime before trial or arraignment saying that there are certain legal issues which should be determined by the district court. Therefore, a notice of appeal and a waiver of trial or hearing in the lower court could be filed and the case would go immediately to the district court.

In further discussion, the Committee decided that this "waiver of trial and intent to appeal" should be filed five days before the trial with the Court Clerk.

No action was taken at this time.

SB 228 Enables City Attorney to bring action against person engaged in deceptive trade practice.

Carl Lovell, City Attorney, Las Vegas informed the Committee that the Consumer Protection Act passed in 1973 failed to include the City

Attorney in the civil powers for injunctive relief, restraining orders, etc. Therefore, their consumer protection division cannot enforce through criminal prosecution and must ask the District Attorney to file an injunction against the individuals.

He stated that the only problem with the bill as it now stands is that the State Treasury would receive any recovery through fines imposed, rather than the City.

No action was taken at this time.

SB 216 Amends Las Vegas City Charter to permit City Attorney to engage in private practice of law until July 1, 1977

Carl Lovell, City Attorney, Las Vegas testified before the Committee on this matter. He cited salaries of City Attorney's in surrounding areas. He read to the Committee a letter from Marvin Leavitt, Director of Finance and A. R. Trelease, City Manager, had the unanimous support of the City Commissioners.

There was further discussion on the bill, however no action was taken at this time.

AB 36 Prohibits injunction of liquid silicone substances into human body.

Senator Close informed the Committee that the Assembly Judiciary Committee has had extensive hearings on this matter. Copies of the minutes of those hearings were distributed to the members of this committee for review. Dr. Vinnik, Secretary, Rocky Mountain Society of Plastic and Reconstructive Surgeons presented testimony before the Committee. He stated that the Society has just completed their annual convention and that it had given its unanimous support to this measure.

After a brief discussion, Senator Bryan moved a "do pass".

Seconded by Senator Wilson.

Motion carried unanimously.

Senator Dodge moved to amend the bill so that it would become effective upon passage.

Seconded By Senator Bryan.

Motion carried unanimously.

SB 229 Provides for certain changes in provisions relating to juveniles and Juvenile Court Judges.

Judge John Mendoza, District Court Juvenile Division and Jim Carmaney, Director of Juvenile Court presented testimony before the committee.

Mr. Carmaney informed the Committee that this bill arose out of a problem with a case of *A Minor vs. The State* (86 Nevada 691). The purpose of the bill is to attempt to conform the practice in juvenile court. They proceed under the criminal procedural rules in all matters of delinquency. He stated that one of the areas opened up by this case, was a ruling handed down by the Supreme Court that said that in cases before the juvenile court, Affidavits of Prejudice may now be filed. The problem with this is some judges may give severe warnings to first time offenders in an attempt to keep them out of further trouble and in doing so, may be disqualified if the person should return. He stated that the actual bias provision would still apply but that they would like to see the Affidavit of Prejudice eliminated in delinquency matters.

The second amendment the Juvenile Division is requesting is one that would afford an additional procedure in which the probation officer may apply to the court for an order directing the District Attorney to file and prosecute the petition. Mr. Carmaney stated that on some occasions, the District Attorney has refused to file a petition for one reason or another.

In regard to Section 3, subsection 4, concerning detention hearings, Mr. Carmaney stated that the reason for this is that they are anticipating a constitutional challenge on the issue of bail for juvenile offenders. What they are trying to mandate is that any child taken into custody, shall within 24 hours have a hearing to determine probable cause for holding.

There was further discussion on the bill, however, no action was taken at this time.

SB 230

Grants Justice's and Municipal Court's original jurisdiction of juvenile traffic offences.

Jim Carmaney, Director of Juvenile Court informed the Committee that this bill was passed in 1971 but was vetoed in 1973. He stated that in 1973 there were 3,000 juvenile reoffense and in 1974 it jumped to 10,000. The problem they are experiencing is that all juvenile traffic offenses must come before the juvenile court and as a result they have juveniles having to drive all over the state to appear. Juvenile traffic offenses are handled the same way as adult offenses in regard to the point system, fines, etc., and what the juvenile division is asking, is that minor traffic offenses be handled in municipal court. They are also requesting that this apply to counties with a population of 200,000 or more which would be Clark County.

Bill Fitzpatrick, Chief of Driver's License, Department of Motor Vehicles stated that the Department was in favor of this bill however, they felt that the authority of the Juvenile Court to suspend or restrict the driver's license should be removed in that it would be very difficult to control. The DMV, according to statute, takes that action automatically and for the Juvenile Court to do this would be a duplication.

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SB 230 No action was taken at this time.

SB 200 Defines "age of amjority" to include certain persons 16 or 17 years of age who have been declared emancipated by the court.


Senator Bryan informed Judge Mendoza about the testimony received before the Committee on this bill, the two major points being the emancipation procedure and transient juvenile problem. Mr. Bill Gang had testified that it was costing approximately \$100,00 per year for detention and apprehension of juveniles who are not guilty of any minconduct but were merely passing through the state and were under age. Senator Bryan stated that he had spoken to Bart Jacka of the Clark County Sheriffs Department and that Mr. Jacka had said that this was not the case.

Judge Mendoza stated that in the past three years they have has approximately 2,500 out-of-jurisdiction cases and that out of that number, one-third were traveling with parental permission. He further discussed with the committee the procedure for contacting the parents of juveniles and stated that the main problem was one of proving parental permission without having to contact the parents.

No action was taken at this time.

There being no further business, the meeting was adjourned.

Respectfully submitted,


Cheri Kinsley, Secretary

APPROVED:


SENATOR MELVIN D. CLOSE JR., CHAIRMAN