

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING

March 10, 1975

The meeting was called to order at 9:10 a.m. Senator Close was in the Chair. All members were present.

SB 294 Imposes stricter standard for justifiable homicide by public officers.

Senator Joe Neal testified on behalf of this bill. He stated that the manner in which the present law is being read and interpreted, allows for the "selective execution" of an alleged criminal. He cited a case in Las Vegas in which a police officer shot and killed, while in pursuit, an individual who had allegedly robbed a gas station.

Senator Wilson pointed out that the language of the bill is too broad and suggested adding the phrase "when necessary" after each semi-colon of paragraph 3. Senator Neal stated that he had no objection to that if it would help clarify the bill.

No action was taken at this time.

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

Senator Close informed the Committee that he had pulled this off the general file because there had been a misunderstanding. The district court is not a court of appeal from the justice court. The action previously taken would make no right of appeal available.

Senator Hilbrecht read from Article 6, Section 6, which is the judicial article of the Constitution. Regarding the jurisdiction of municipal courts "they shall also have final appellate jurisdiction in cases arising in justices court and other inferior tribunals that may be established by law."

Senator Sheerin further commented that NRS 189.010 states that a defendant in a criminal action before a justice of the peace may appeal to the district court of the county where the court of justice was held, within 10 days.

Senator Bryan moved to amend and do pass,
Seconded by Senator Dodge,
Motion carried unanimously.

SB 253 Revises provisions relating to alimony.

Senator Hilbrecht felt that there was no justification in case law for the insertion of the word "substantially" in line 26 of page 2.

Senator Bryan had a question as to what "child-rearing responsibilities" were in (a) of Section 1. Senator Hilbrecht replied that this had been taken from the California statute and it means that if a wife has 7 kids, although she may be able and willing to work, the judge may reasonably determine that it is in the best interest of the children for her to stay home and take care of them.

Senator Sheerin pointed out that this statute is not talking about child support. Rather, "child-rearing responsibilities" is one consideration that the court can take into account when it is splitting up the community property.

Senator Bryan felt that the term was so vague and ambiguous that it would not provide any meaning or value.

He further commented that the California statute tries to be too specific. He felt that there would be more flexibility in the law by retaining the present language and make it

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reciprocal. Senator Wilson concurred and stated that there was a good body of case law developed on the existing laws. However he had a question as to whether or not the case law is sufficiently clear to provide the kind of equity the new language in lines 11 through 23 of page 1 seeks.

Senator Hilbrecht reiterated a previous decision of the Committee that alimony may not be modified under Nevada law; that case law clearly says that this particular provision makes it a final and binding decree which may not be modified except by written stipulation of the parties. That point is taken care of in lines 23 through 28 on page 2. However, the alimony language was not deleted from the treatment of the property settlement agreement which appeared in the old language (lines 15 through 23 of page 2). The provisions requiring written stipulation of property agreements should be retained in the law. It was his suggestion to delete reference to alimony altogether and deal only with property settlement.

Senator Bryan agreed however he felt that if alimony is made a part of the property settlement, they should specify in lines 23 through 28 whether it is by order of the court or whether it is contained in the agreement. Senator Hilbrecht concurred with this.

Senator Close suggested that the Committee review the bill in its entirety to make sure there was agreement on the changes being made.

Page 1 - Section 1 Senator Dodge expressed reservation about whether they ought to change it at all. He pointed out that one of the reasons why he was not in favor of ERA was that he felt they ought to retain in the law, such protective legislation as he thought good social policy indicated. He further commented that he did not know if it was desirable at this point in time, to indicate by statute any changes in the concept of the husband's responsibilities in the event of the break-up of the marriage.

Senator Bryan made a motion to retain the language in lines 1 through 8 and amend it by deleting "wife" on line 3 and inserting "either party"; seconded by Senator Hilbrecht; motion carried. Senator Dodge voted NO.

Page 2 - paragraph 4 Senator Hilbrecht made a motion to delete lines 11 through 14; seconded by Senator Bryan; motion carried unanimously.

Page 2 - paragraph 5 It was the decision of the Committee to retain lines 16 through 23 with the following amendments:

lines 15-16 delete "alimony has been awarded ... otherwise" and insert "the court";

line 19 delete "such alimony so awarded";

line 23 beginning "If a decree" through line 23 will become a new paragraph 6;

line 26 delete "substantially."

Section 2, paragraph 1 Senator Hilbrecht stated he felt the \$10 fee is unreasonable. It was the decision of the Committee to amend it by deleting on line 34 "and disbursements not to exceed \$10."

Senator Hilbrecht moved to amend and do pass with the reservation of the right to take a second action on the floor;

Seconded by Senator Wilson;

Motion carried unanimously.

SB 293 Revises provisions relating to marriage.

Senator Dodge had a question on the meaning of paragraph 2 of Section 1. Senator Sheerin responded by way of example, that if an individual had been married while under the influence of alcohol and after sobering up, if that person decided to remain married it

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would be considered a lawful marriage; alcohol would be the impediment in this case. He further stated that this section is confusing the annulment section.

There was further discussion on the matter but no action was taken at this time.

Senator Close presented two bills for Committee introduction:

BDR 11-1070 which would eliminate disparities based on sex; and
BDR 3-1068 deals with the crime of solicitation.

Committee introduction was approved unanimously.

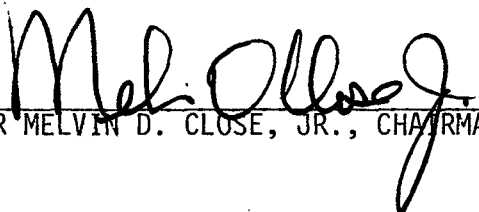
Senator Close read to the Committee the amendments proposed by the Assembly to SB 135 (makes Attorney General responsible for issuing permits or licenses to transport, possess, or sell lead gas devices). He had talked to Bart Jacka of the Metropolitan Sheriffs Department in Las Vegas and he had had no objections to the amendment. The Committee concurred in the amendment.

There being no further business, the meeting was adjourned.

Respectfully submitted,


Cheri Kinsley, Secretary

APPROVED:


SENATOR MELVIN D. CLOSE, JR., CHAIRMAN