

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING

March 25, 1975

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

Present: Senator Close, Chairman
 Senator Wilson
 Senator Bryan
 Senator Sheerin
 Senator Dodge
 Senator Foote
 Senator Hilbrecht

AB 193 Permits court to reduce parolees' original term of imprisonment under certain circumstances.

Bud Hicks, Deputy Attorney General testified on this matter. He stated that this bill is a device by which we would be able to terminate parole prior to the original sentence imposed by the court. The problem they have is with keeping people on parole longer than they need be. The parole officer would petition the parole board; the parole board after reviewing the case could petition the court of original jurisdiction; the district attorney has some input; and then the court would have the authority to modify the original sentence. Under the present law, a person must serve the entire time of sentence; for example, if his sentence is 8 years, he may serve 2 years in prison and 6 years on parole.

Senator Close asked whether or not the parole and probation department offers suggestions to the court as to the length of the sentence to be given to a certain individual. Mr. Hicks replied that the judge is making a decision at one point in a person's life not really knowing how that person will react to imprisonment so, if anything, the judge may set a sentence with a little safety margin that in the end is not really necessary. What they are asking, is that in those instances, they can go back to the judge and ask him to review the case again. He feels that the bill has many safeguards built in.

Senator Close remarked that he was opposed to the concept entirely. It was his feeling that once a person has committed a crime and goes to prison for a term that has been recommended by the parole and probation department, that that person should have to serve that time. He felt that supervision could be minimal, perhaps contact only once a year, but the person should not go free before sentencing is up.

Senator Hilbrecht moved to indefinitely postpone,
 Seconded by Senator Dodge,
 Motion carried unanimously. Senator Wilson was absent from the vote.

AB 195 Enlarges provision for disclosure of information obtained by employees of Department of Parole and Probation.

Bud Hicks, Deputy Attorney General stated that the purpose of the measure was to make NRS 213.1098 compatible with the language governing probation.

Senator Bryan moved a do pass,
 Seconded by Senator Dodge,
 Motion carried unanimously. Senator Hilbrecht was absent from the vote.

AB 278 Clarifies the running of driver's license suspension and revocation periods.

Bill Fitzpatrick, Chief of Driver's License testified on this matter. He stated that they

were requesting that the wording of suspension and revocation that require the periods to run consecutively be allowed to run consecutively or concurrently. The reason being that they have a conflict in the demerit point system wherein one remains under suspension until the merit points drop below 12 demerits in a 12 month period. This is set in and consequently, as a result of this, they would have to at least, in part, run concurrently.

In response to a question by Senator Bryan as to who would make the determination, Mr. Fitzpatrick replied that the demerit points law itself would.

Senator Dodge asked whether or not it could be made more clear if you were to reference the sections on the demerit system and the implied consent. What you are saying, as I understand it, is that there is no way you can comply with those laws unless it can run concurrently in those situations.

Senator Bryan suggested amending line 10 to read, "shall run consecutively except as provided in NRS 483.470 when they shall run concurrently".

Senator Dodge moved to amend and do pass.

Seconded by Senator Bryan,

Motion carried unanimously. Senator Wilson was absent from the vote.

SB 339 Prohibits introduction of evidence or set off by tortfeasor in an action for damages of compensation under Nevada Industrial Insurance Act.

John R. Reiser, Chairman of Nevada Industrial Commission testified on this measure. He stated that they have more questions on the bill than they have answers and that they are not quite sure what the intent actually is. He further believes that the bill is ambiguous as written.

Senator William J. Raggio stated that this bill was requested by several plaintiff's attorneys who felt that there was an inequity in allowing evidence of the entitlement from NIC be admissible in evidence on behalf of the tortfeasor against a third party defendant. They also felt that it was improper in a case where the suit was against a tortfeasor other than the employer, to have a set off for the amount that the government would be paying the plaintiff. He further remarked that he had been unaware that the hearing was to be today and that he knew of several attorneys who wished to testify on it.

Senator Hilbrecht pointed out that the language in line 32 of page 2 is in derivation of common law. On the one hand, NIC has the right of subrogation and on the other, the third party from whom they are trying to collect is set off; that means he pays twice. He felt that the new language would not be needed if subsection 5 of Section 2 were deleted; common law is that you cannot introduce evidence of collateral resources.

Senator Close asked if it was the usual practice for NIC to subrogate themselves for any amounts received by a third party. He cited an example of an individual seeking a \$50,000 award and having received \$10,000 from NIC. If the jury is aware of the fact that \$10,000 has been received from NIC, they would reduce the verdict by that amount. After NIC recoups their \$10,000 from the judgment, the injured party would, in effect, receive only \$30,000.

After considerable discussion, Senator Hilbrecht suggested that the problem could be alleviated by saying "any actions by the injured party against a tortfeasor other than the employer."

No action was taken at this time. Mr. Reiser will come back with amendments for the Committee's review.

BDR 11-1074 Revises community property laws.

Jim Kosinski Bill Drafter reviewed the draft with the Committee.

Section 1 - Mr. Kosinski distributed to the Committee copies of NRS 41.170 which would deal with the situation where one spouse is injured and the recovery remains the separate property of that spouse as far as physical injuries are concerned. It was his recommendation to delete paragraph (a) of subsection 2, Section 1. Senator Dodge pointed out that 41.170 is the Special Proceedings and Actions section and does not deal directly with community property as such. He felt it would be better to reference these sections where possible so that it would be easier to find. He thought they should put everything into the community property law that relates to the community property concept. Senator Close agreed and recommended striking 41.170 from Chapter 41 and putting it into NRS 123.120. After considerable discussion, it was the decision of the Committee to indicate that the husband and wife may sue jointly or severally in all causes of action involving their rights as individuals or those of the community with 3 separate areas of recovery:

1) pain and suffering goes to the injured spouse; 2) loss of services, consortium, etc. goes to the other spouse; and 3) personal property injury, hospital and medical will be community property.

Section 3 - Senator Dodge felt that the word "earnings" should be clarified. The normal connotation of "earnings" would be a wage or salary. In order to protect interest, dividends or other assets, you would have to say "wages and salaries plus accumulations."

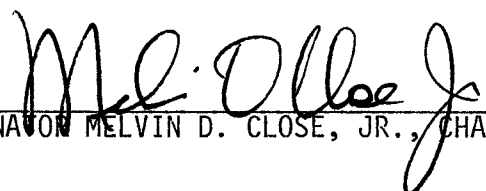
Mr. Kosinski will redraft this according to the Committee's suggestions. No action was taken at this time.

There being no further business, the meeting was adjourned.

Respectfully submitted,


Cheri Kinsley, Secretary

APPROVED:


SENATOR MELVIN D. CLOSE, JR., CHAIRMAN