

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING

MAY 6, 1975

The meeting was called to order at 8:10 a.m. Senator Close was in the Chair.

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

AB 101 Provides optional procedure for enforcing certain assessment liens with respect to condominiums and planned unit residential developments.

Jean Ford, Assemblyman, testified that this bill was introduced because of the problems now emerging with administering condominiums and collecting monthly maintenance fees. The associations saw the procedures for foreclosing as a remedy but then the title companies said they could not give title under procedures in the present law. There was concern that without a clear procedure they had no way of enforcing collection of fees and with this, even though the foreclosure procedure would not be used very often, just sending a letter saying under the law it could be done generally would get the people to pay their back charges. She stated that unless there are avenues provided for them to go, condominiums are going to get a bad name and this would not be good for the industry or the people in them. She presented an analysis of the bill for the Committee's review. (copy attached)*

The Committee questioned some of the legal terminology in the bill and requested that Mr. Lopez attend the May 8 meeting to discuss this bill.

There was no action taken at this time.

AB 462 Allows drug addicts election of civil commitment in certain circumstances.

Paul Cohan, Bureau of Alcohol & Drug Abuse, Division of Rehabilitation, testified that they support this bill as it lends credibility to treatment facilities in the sense that the actual facility will have to be licensed, program will be accredited and the personnel will be certified such as in hospitals. This will also make the program eligible for third party payments in the future.

* Not attached.

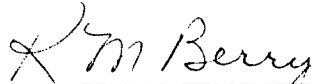
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AB 38 Section 16: line 48 change "inventory" to "record of value" and on line 49 add "as provided in 144.020".
Section 20: delete the word "minor" wherever it appears in this section referring to minor child so adult children are included; line 49 check the fees charged by the clerk between \$5,000 and \$10,000 - there are none listed.
Section 22: refer this section back to Section 16 to make it conform.
Section 30: Retain rate schedule under present law and add provision recognizing agreements made prior to death of a person; lines 13-15 remove brackets.
Section 31: No decision made on this section at this time, but discussed agreements on attorney fees.
Section 32: line 33 change "may" to "shall".
Section 35: Delete entire section.
 Throughout the entire bill when referring to posting of notices the word "successive" was changed to "consecutive". Senator Hilbrecht suggested pulling all notice provisions in the bill and making one section for notices. The Chairman asked Mr. Hilbrecht to consult Frank Daykin and see if there was time to accomplish this. The Committee also discussed exempting residences from the estate when spouse or children are actually living in them.


Senator Bryan moved a "do pass as amended" (upon review),
 Seconded by Senator Hilbrecht,
 Motion carried unanimously.

There being no further business, the meeting was adjourned.

Respectfully submitted,


 Katherine Berry, Secretary

APPROVED:


 Senator Close, Chairman

Senate Concurrent Resolution No. 11—Senator Monroe
FILE NUMBER 122

SENATE CONCURRENT RESOLUTION—Directing the legislative commission to conduct a study of the probate and related provisions in the statutes of the State of Nevada, to make recommendations and to report to the next regular session of the legislature.

WHEREAS, It has become apparent that the increase in population and the mobility of the population in our society necessitates a serious consideration of the adequacy of the probate and related provisions in the statutes of the State of Nevada; and

WHEREAS, Although these provisions were adequate in a less mobile society, such laws tend to decrease in effectiveness and are insufficient to deal with problems encountered in a shifting society, many of which result from conflicting provisions in other states' statutes; and

WHEREAS, There is a trend toward modernizing these related codes to permit a more effective and efficient administration of the laws; now, therefore, be it

Resolved by the Senate of the State of Nevada, the Assembly concurring, That the legislative commission is hereby directed:

- 1. To make a thorough study of the probate and related provisions in the statutes of the State of Nevada and other states, including a study of the Uniform Probate Code, with a view to modernizing and improving the existing probate and related provisions in the statutes of the State of Nevada; and
- 2. To report the results of such directed study to the 58th session of the legislature, together with recommendations for any necessary and appropriate legislation.

ADDRESS BY STATE CHAIRMAN
OF JOINT LEGISLATIVE COMMITTEE OF
THE AMERICAN ASSOCIATION OF RETIRED PERSONS
AND
THE NEVADA RETIRED TEACHERS ASSOCIATION

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Mr. Chairman and members of the sub-committee:

My name is Don Perry. I am a retired teacher and school administrator and a member of the Carson City unit of the National Retired Teachers Association.

I appear before you today as the Chairman of the Nevada Joint State Legislative Committee of Nevada Retired Teachers and the American Association of Retired Persons, representing their combined membership of over 19,000 Nevada senior citizens.

Before I get too far into the subject of today's discussion, perhaps I should digress a moment to tell you about our joint legislative committee. The committee consists of 10 members, five members from each organization. These members were selected from various sections of the state so that constant communication with the local associations could be maintained. Organization of this joint legislative committee took place in October 1972 and was active for the first time during the 1973 session of the Nevada legislature supporting legislation of particular interest and concern to senior citizens.

One of our 1973 resolutions provided in essence that there be a study of the Uniform Probate Code. You, gentlemen, are now in the process of conducting such a study. The members of our Associations would like to believe that our resolution had something to do with the inauguration and implementation of your study.

The Associations which I represent actively support the concept of probate reform. By this statement we do not demand the repeal of all Nevada statutes relative to probate and forthwith there be substituted the Uniform Probate Code. Rather, we would like to suggest that your subcommittee consider in your study the method being used in our neighboring state of Utah. A legislative subcommittee of that state is studying the same problem that you are.

Their method consists of analyzing and comparing the Uniform Probate Code with existing Utah law. In order to do this they have arranged the material into four columns. The first column is a summarization of the text of the indicated section of the U.P.C. (Uniform Probate Code). The second column is a summarization of the Utah law which compares to the U.P.C. section. The third column contains comments on the comparison and other information as to what other states have done with respect to the adoption of the indicated

U.P.C. section, and what the California State Bar Critique had to say about that section of the U.P.C. The fourth column is a recommendation of what the committee might consider doing.

I have a copy of the Utah study with me. I also provided Mr. Sheffield with a copy several weeks ago. It is not a bulky document, consisting of approximately forty pages. It is readable and understandable to the average citizen. If individual members of your subcommittee desire a copy, extra copies can be reproduced for you from either Mr. Sheffield's copy or from mine.

Since assuming chairmanship of the joint legislative committee I have received ever-increasing complaints about obsolete inheritance laws and irrelevant and expensive procedures. These apparently have been with us for decades, so long, in fact, that some of us tend to discount the frustrations and problems they generate. However, to the people who have undergone the archaic and costly probate machinery, the problem is real and deep-seated and they desire to see something done about it.

Therefore, the Associations which I represent would like to bring the probate process into conformity with the needs and wishes of the average American who wishes to

insure the orderly distribution of his estate, but for whom extensive estate planning is simply not feasible. It is the considered opinion of our joint state legislative committee that if you choose to use the Utah plan that this objective will be largely accomplished.

I believe that I should try to pass on to you those provisions of the Uniform Probate Code which we feel are of primary importance to Nevada senior citizens and, for that matter, to the average person in the State of Nevada.

We believe that the passage of the UPC will enable persons of ordinary means to pass on their property at death with fewer delays, less cost and, most importantly, with the assurance that their wishes will be carried out. The Probate Code accomplishes this result by simplifying the making and probating of a will. Just as importantly, the Code relieves most persons in ordinary circumstances of the necessity to make wills by providing a modern intestate succession plan that reflects the intentions of most people. Studies have shown that most persons of modest means want their estate to pass entirely to the surviving spouse. Whereas most statutory estate plans still divide a decedent's property between the spouse and other relatives, often including collateral relatives. Under present statutes, people are forced to make wills simply to avoid the undesirable effects of the law.

Present statutes also contain other provisions which tend to force people to make wills: Wills are commonly used to name family members to administer estates; the UPC sets up the order of priority for administration beginning with the surviving spouse. Today, wills are used to avoid common disaster problems, under the UPC a spouse must survive the decedent by five full days. Today, old legal formalities throw considerable doubt on the validity of a will made in one state when the testator later takes up residence in another state. Under the UPC it would no longer be necessary to make a new will when a person took up residence in another state where the Code had been enacted, for it recognizes the validity of "foreign" wills.

For those who prefer to control their estates by their own will, the Code also offers some significant improvements. Under it, a simple signed statement is valid as a will, and even if witnesses are used for additional safety, the Code permits the will to be probated without calling the witnesses to court after the death. In short, the will would have a presumption of validity unless challenged by any interested party, at which time a court proceeding would be convened to determine its validity.

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The Code also slices away a lot of red tape and reduced procedural requirements relating to inheritance. By offering procedures for informal probate and administration (that is, without court supervision), the Code reduces the need for a lawyer in every estate and the need to wait months or even years for an inheritance. The simplicity and speed of Code procedures work to shorten delays and lower the expense of settling small, troublefree estates.

The Code provides modern, sensible laws relating to guardianships, conservatorships and other means for handling the affairs of persons who are incapacitated by illness, advanced age or other disability. The Code provides for powers of attorney that remain good in spite of incompetency, so that persons who expect difficulties in managing for themselves can arrange for others to act for them.

Finally, the Code unifies administration of estates consisting of land or savings located in two or more states. The mobility of Americans makes this reform essential. In short, the Uniform Probate Code assumes that most people are trustworthy and honest, and makes the law work in their favor. But at the same time, it fully protects those who need safeguards against foul play.

Thank you very much for your kind attention. We urge that you consider and weigh carefully the needs and wishes of the average citizen in your deliberations.