

MINUTES

JUDICIARY COMMITTEE

January 31, 1977

9:12 a.m.

Members Present: Chairman Barengo
Mr. Price
Mr. Coulter
Mr. Sena
Mrs. Hayes
Mr. Ross
Mr. Polish
Mr. Banner
Mrs. Wagner

Members Absent: None

This meeting was called to order by Mr. Barengo at 9:12 a.m. This meeting was called to hear AB 18. Mr. Barengo also said the committee would hear AB 38 this morning.

Mr. Sena moved that the minutes of the January 18, 19 and 24 meetings be approved. Mr. Barengo seconded the motion and it carried unanimously.

AB 18: This bill changes the terminology from "director" to "librarian" in reference to the person who determines the quantity of statutes or reports to be printed for interchange. Mr. Barengo read a note from David Hagen stating that the Nevada State Bar Association is in favor of this bill. After a brief discussion on this, Mrs. Hayes moved that this bill be adopted. Mr. Sena seconded the motion and it carried unanimously.

Mr. Barengo said that Mr. Dini had asked him if there were any bills which could be heard, for expediency sake, without the regular hearing and in going through the pending bills, he felt AB 38 would be appropriate.

AB 38: Mr. Barengo stated that this bill was a recommendation of the Interim Committee and that no one was in opposition to it. Mr. Barengo explained the statute now provides that after a person has been bound over from a criminal proceeding to a district court, he cannot enter any kind of plea if a writ of habeas corpus is going to be filed. As a result, the arraignments and entry of pleas are being continued and continued and since no trial date is set, it is slowing the process down. AB 38 would allow a person to go in and make a plea and get a trial date set and still, within a certain time, file their petition for habeas corpus. This seemed to be a needed system so that a person could get the date set and keep things moving. There was further discussion on this and Mrs. Hayes noted that there was a standing rule that in order to hear any bill there must be notice given that it is going to be heard. Mr. Barengo then stated that this bill will be heard the week of February 7.

Assembly

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Mr. Barengo stated that Mr. Kosinski and Mr. Hickey had given him some bills for committee introduction. They were as follow:

This bill makes husband subject to conviction for rape of his wife if he has carnal knowledge of her against her will. After discussion of this, Mrs. Hayes moved that the committee introduce this bill and Mrs. Wagner seconded the motion. The motion carried unanimously. This bill was Mr. Kosinski's. (A.B. 175)

This bill is an Act relating to controlled substances, prescribing the time for presenting evidence of certain previous offenses in the prosecution of a person for possession of a controlled substance and other matters properly relating thereto. Mr. Price stated that this bill would make sure that the judge had information of prior convictions before sentencing on a case. Mr. Barengo said that this was true and that this bill enabled all the information on the prior convictions to be given to the judge after conviction and before sentencing. He stated there is a clause in the controlled substance section, that raises the penalty for a second or subsequent offense and this bill would make it mandatory for the judge to be made aware of any prior offenses. After discussion on this, Mr. Ross moved, that as a courtesy to Mr. Hickey, that the bill have committee introduction. Mr. Polish seconded the motion and the motion carried unanimously. (A.B. 176)

Mr. Price then gave to Mr. Barengo those bill which had been given to him by Mr. Hickey, asking for committee introduction.

The first bill presented "Prohibits deferment of proceedings and grant of probation for persons guilty of possessing certain controlled substances". Mr. Barengo stated that the bill states that "whenever a person has not been previously convicted of any offense under the provisions of NRS controlled substance statutes, pleads guilty to or is found guilty of possession of controlled substance under this section, the court, without entering a judgement of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions". The new language takes out the period and says "...unless the violation constitutes possession of a controlled substance of the type whose use may lead to severe physical dependence." After further discussion of this matter it was thought that this was too vague and there would be problems of interpretation and the committee decided to pass on this particular one.

The next bill presented "Permits searches of parolees, probationers, by parole and probation officers without warrant." After a short discussion on this, Mrs. Hayes moved to introduce it and the motion was seconded by Mr. Polish. Mr. Ross was the one opposing vote. The motion carried.

The next bill presented "Clarifies provision which makes imposition of consecutive sentences of imprisonment mandatory." Mr. Barengo explained that if you do several different things and are convicted, you have to go to jail consecutively rather than concurrently. Consecutively being, one after the other and concurrently being, at the same time. This would apply to someone who was serving time or on probation or on parole. After a short discussion, Mr. Sena moved to introduce and Mrs. Hayes seconded the motion and it carried unanimously.

The next bill presented "Limits types of offenses for which convicted persons must register with law enforcement agencies." Copies of this bill were passed to the members of the committee. Mr. Barengo read from NRS the items which would be deleted by this bill. It was thought that this would be primarily a "clean up" measure. Mrs. Hayes moved to introduce this and Mrs. Wagner seconded the motion and it carried unanimously.

The last bill presented "Changes terminology for restoration of rights of pardoned or paroled prisoners." This changes the terminology by using the term civil rights instead of citizenship as is now used. After a very brief discussion, Mrs. Hayes made a motion to introduce this and Mr. Price seconded the motion and it carried unanimously.

As there was no further business, Mr. Price moved for adjournment and the motion was seconded by Mrs. Hayes and carried. Mr. ~~Barengo~~ adjourned the meeting at 9:50 a.m.

Respectfully submitted,

Linda Chandler

Linda Chandler
Secretary

(A.B. 198)

(A.B. 197)

ASSEMBLY

AGENDA FOR COMMITTEE ON JUDICIARY

Date..... Time 9 a.m. Room 240

Bills or Resolutions
to be considered

Subject

Counsel
requested*

Feb. 4	AB 24	Revocation or modification of parole from juvenile correctional institutions.	
	AB 25	Requires notice of application for attorneys' fees in summary administration of decedents' estates.	

ASSEMBLY

AGENDA FOR COMMITTEE ON JUDICIARY

Date..... Time. 9 a.m. Room. 240

Bills or Resolutions
to be considered

Subject

Counsel
requested*

Feb. 3 AB 5 Provides for exemption of members of clergy
from jury service.

ASSEMBLY

AGENDA FOR COMMITTEE ON JUDICIARY

Date..... Time 9 a.m. Room 240

Bills or Resolutions
to be considered

Subject

Counsel
requested*

Feb. 1 AB 12 Changes provision which prescribes additional
penalty for use of deadly weapon in commission
of certain crimes.

AGENDA FOR COMMITTEE ON JUDICIARY

Date..... Time 9 a.m. Room 240

Bills or Resolutions
to be considered

Subject

Counsel
requested*

an. 31

AB 18

Allows librarian of supreme court law
library to determine quantity of Statutes
of Nevada and Nevada Reports needed by
that library for interchange purposes