

MINUTES

JUDICIARY COMMITTEE  
February 4, 1977  
9:15 a.m.

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

Members Absent: None

Guests Present: Jack E. Butler, 8th Jud. District Court  
Jan Harrington  
Orville A. Wahrenbrach  
Mary Ann Holmes  
Peter C. Neumann, Esq.

This meeting was called to order by Mr. Barengo at 9:15 a.m. Mr. Barengo stated that pursuant to the agenda, we will begin with A.B. 24.

Assembly Bill 24

Mr. Orville A. Wahrenbrach, Chief Asst. to the Director of the Dept. of Human Resources, was first to testify on A.B. 24. He testified in favor of the bill as it had been prepared on their behalf. It has been prepared in order to provide due process for their juvenile institutions in terms of revocation of parole. Currently, the way the statute reads, the superintendent of either institution has the right to immediately revoke a juvenile's parole. He stated that this was contrary to recent Supreme Court decisions in not providing an opportunity for that person to be heard to present any witnesses that might be in his defense as to any reasons why his parole should not be revoked. Therefore, they had requested legislation which would provide for a due process hearing for the individual should he want a hearing. He stated the bill has essentially two elements, one of which would give the opportunity for judicial review and the other, for an administrative review (which would be particularly relevant in the smaller counties). Mr. Wahrenbrach then detailed for the committee the current juvenile system. He stated that Mr. Jack Butler was here today with some amendments to the bill; they feel that perhaps there is room for improvement on the bill. Sue Wagner asked Mr. Wahrenbrach regarding the second kind of hearing, found on page 2 § 3, if he saw any problems regarding the people that would be involved with parolees in other ways. Mr. Wahrenbrach stated that the administrator of the youth services agency would be the one to appoint a hearing board or hold an administrative hearing if that were deemed appropriate or necessary. Thereafter

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there were considerable questions and discussion amongst the committee and Mr. Wahrenbrach on this issue (line 5, p. 1). The administrator is defined in 210. Upon Mr. Ross' question, Mr. Wahrenbrach also clarified that a hearing would be held in the jurisdiction where the accusations were made to revoke the person's parole.

Mr. Jack Butler was second to testify on A.B. 24. He is the Master of the Juvenile Court for the 8th Judicial District for the state of Nevada. Mr. Butler expanded more on exactly what happened in the revocation of parole and probation. He referred to two cases in particular, i.e. Morrissey and Gagner, regarding the right to have a hearing. Mr. Butler commented that upon reading the bill, he feels that it violates "due process" because of the partiality that is given to the administrator. He stated that as a result of the above cases, they instituted in Clark County the Revocation Hearing. After considerable testimony, he concluded that what he felt the bill would do would be, adding up the number of days -- 10 days notice, 30 day period for a hearing, 10 day decision, placement in their facility for a maximum period of 50 days if wanted. Their recommendation would be under section 210, strike the word "superintendent", insert the word "the district court judge or his appointed master" may suspend . . . He further stated that he feels that the proposed bill has failed in its "due process" in that it does not create the impartial body to conduct the hearing. They feel it should be done by a judicial branch of government. Mr. Barengo offered that in regard to their question regarding the appointment by an agency head or an agency that runs the particular area of government to have a hearing officer to make decisions, has been answered in the NIC case and has been held constitutional by our Supreme Court. After further questions from Mr. Ross, he asked Mr. Butler if he would have any objection to proposing in written form, amendments to the bill. Chairman Barengo then requested Mr. Butler to get together with Mr. Wahrenbrach as to what they will agree on and what they will not agree on and deliver it to this committee.

Assembly Bill 25

Peter Neumann, Esq., Nevada Trial Lawyers Association, took the stand to testify in favor of the proposed bill. However, he stated that he did notice one discrepancy. He stated in section A that is to be amended, perhaps the committee would care to consider giving the notice referred to therein to the heirs or beneficiaries to the estate also. He proposed that they add the following language to section A in line 5 of the bill. Where it is stated "for the notice to creditors", the committee might want to add ". . . and notice to the heirs" or something to that effect. There were further questions regarding the bill from committee members. Mr. Neumann suggested that perhaps somehow the committee could connect 145.050 with 145.030 which would then cause the

petition itself, asking for summary administration, to include the fact that attorneys fees will be asked. Mr. Barengo noted that this bill is a big modification, particularly with regard to senior citizens who did not want to have the expense of notifications. Upon further discussion it was concluded that perhaps the best thing to do would be to refer back to the other section which would hopefully solve the problem. Mr. Neumann was excused and there was no further testimony on this bill.

Assembly Concurrent Resolution No. 11

Mary Ann Holmes then addressed the committee as state chairman for "Hands Up" which is a national volunteer effort to halt crime. She further explained that this is sponsored through the General Federation of Women's Clubs and they were also given a grant by the Dept. of Justice Law Enforcement Assistance Administration. Mrs. Holmes detailed for the committee the basis of "Hands Up" and just exactly what they are doing and what their plans are for the future. Mr. Sena then commended Mrs. Holmes and the entire "Hands Up" program.

COMMITTEE ACTION

Assembly Bill 25: Chairman Barengo offered that the committee might want to read NRS 150.060. He stated that perhaps all that is needed with this bill is to tie up the language by saying, ". . .notice of application for attorneys' fees as provided for in NRS 150.060" would solve the problem. Mr. Ross so moved. Mrs. Wagner seconded the motion. Motion to DO PASS AS AMENDED was passed unanimously.

Assembly Concurrent Resolution No. 11: Mr. Sena moved for adoption, motion was seconded by Mrs. Wagner. Motion for a DO PASS passed unanimously.

Mr. Barengo advised the committee on a certain television program that would be on next week on the "right to die" issue.

There being no further business, Mrs. Hayes moved for an adjournment, seconded by Mr. Sena. Chairman Barengo adjourned the meeting at 10:10 a.m.

Respectfully submitted,



Anne M. Peirce, Assembly Attache

