

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING

JANUARY 26, 1977

The meeting was called to order at 8:30 a.m. Senator Close was in the Chair.

PRESENT: Senator Close
Senator Bryan
Senator Dodge
Senator Foote
Senator Sheerin
Senator Gojack
Senator Ashworth

ABSENT:

BDR 17-399 Provides travel expenses for employees of standing committees.

Senator Close presented the above for committee introduction. He stated that the bill also included a provision that would allow for payment of television coverage which he felt was inappropriate and suggested that this be deleted.

Senator Dodge moved for committee introduction as amended. Seconded by Senator Sheerin. Motion carried unanimously. Senators Bryan, Foote and Ashworth were absent from the vote.

SB 68 Provides for preliminary inquiry after arrest of a probationer to determine whether probable cause exists for revocation of probation.

A. A. Campos, Chief Parole and Probation Officer testified before the Committee on this matter. He stated that the purpose of this bill was to extend to the arrested probation alleged violator those rights presently afforded to a parolee, as required by two recent United States Supreme Court decisions. He further stated that the procedures outlined are currently being followed but are not in the statute.

Following a brief discussion, Senator Bryan moved do pass. Seconded by Senator Gojack. Motion carried unanimously.

SB 69 Shortens maximum period of probation or suspension of sentence for gross misdemeanors.

A. A. Campos testified on behalf of this measure. He stated that the law currently provides that a person can be placed on probation for a period not to exceed five years and that there is no distinction made between a felony and a gross misdemeanor. It is the Parole and Probation Department's feeling that an individual should not have to be on probation for a five year period for a gross misdemeanor.

In response to a question by Senator Bryan as to the Court's discretion in establishing the period of probation, Mr. Campos stated that there were discrepancies or inequities in terms of sentencing.

Senators Sheerin and Bryan expressed concern over "plea-bargaining." Senator Bryan stated that many times, especially in the area of narcotics, an offender will be allowed to plea to a conspiracy charge, which is a gross misdemeanor, so that the individual would not have an ex-felon status.

Mr. Campos agreed that the majority of the gross misdemeanors fall into the category of plea-bargaining.

After further discussion, Senator Bryan moved to indefinitely postpone action on this matter.

Seconded by Senator Ashworth.

Motion carried. The vote was as follows:

VOTING AYE:	Senator Close	VOTING NAY:	Senator Gojack
	Senator Bryan		Senator Foote
	Senator Sheerin		
	Senator Ashworth		
	Senator Dodge		

SB 76 Deletes certain provisions on application for parole by county jail prisoner and good time credits after parole violation.

A. A. Campos appeared before the Committee on this matter. He stated that there were two parts to this bill. The first item of concern was that under the old Nevada Statutes (prior to 1967) the Parole Board has some jurisdiction over an individual serving a term in the county jail. However, after 1967 the Parole Board could not enter into any jurisdiction over a prisoner until he had served a minimum period of one year. He informed the Committee that this process

SB 76 creates a lot of extra work for no reason and therefore, they are asking that the county jail be stricken from this section of the law.

In discussing the second portion of the bill, Mr. Campos informed the Committee that this deals with the parolee who violates parole by leaving the state without permission and upon return to the state prison, cannot earn good time credits for a period of one year. He stated that there are hundreds of ways to violate parole but that this is the only instance in which good time credits cannot be earned upon return to prison.

Senator Bryan pointed out that the statute deals with a parolee who escapes parole rather than the prisoner who escapes from prison. Mr. Campos agreed and further commented that that was the problem. That this should be in the prison section rather than the parole section.

Following a brief discussion, Senator Dodge moved do pass. Seconded by Senator Gojack. Motion carried unanimously.

SB 77 Abolishes stay of execution of sentence pending application for clemency.

A. A. Campos testified before the committee on this matter. He stated that they are asking that NRS 176.375 and the other statutes relating to this be deleted in that the only crimes it applies to are crimes in which a judge has total control; crimes that are excluded are those crimes that are non-probatable and which the Parole Board has no jurisdiction over.

Senator Gojack moved a do pass. Seconded by Senator Sheerin. Motion carried unanimously.

SB 78 Deletes provision for deferring dishonorable discharge from probation in certain instances.

A. A. Campos appeared on behalf of this measure. At the present time, the law provides that if a person is a fugitive and a dishonorable discharge from probation is issued at the termination of what would have been the normal term of probation, that the warrent for arrest would remain outstanding for a period of one year after the dishonorable discharge. He stated that the standard legal thinking on this, and in fact the actual practice, is that once you discharge an

SB 78 individual from any type of jurisdiction, that you no longer have any authority over that individual.

Following a brief discussion, Senator Dodge moved a do pass.
Seconded by Senator Gojack.
Motion carried unanimously.

SB 79 Requires imprisonment of convicts in state prison for misdemeanors and gross misdemeanors.

Pete Rasner, Sheriff of Carson City and Harold Jacobs Mayor of Carson City testified before the Committee on this matter.

Sheriff Rasner stated that the problem they were encountering was that if a prisoner in the Nevada State Prison committed a felony crime while in prison, and it is reduced to a gross misdemeanor, they receive county jail time. By this bill, they are trying to eliminate their coming to the county jail and continue their sentence at the prison as the county does not have the space to house these people.

Frank Daykin, Legislative Council Bureau was requested to discuss the bill with the Committee.
Senator Bryan expressed concern that the bill might, in some way, effect city jails. Mr. Daykin stated that persons incarcerated in city jails were so because of a violation of city ordinances whereas the bill concerns only violations of state statutes.

Senator Gojack moved a do pass.
Seconded by Senator Sheerin.
Motion carried unanimously.

SB 83 Provides for tests for use of controlled substances as condition of probation or parole.

A. A. Campos appeared on behalf of this measure. He stated that most people in jail are not there because of drug arrests but perhaps because of drug-related problems. The law as presently written does not allow the Parole Board to require drug tests unless the person has been imprisoned on drug related charges. The purpose of this bill is to get a handle on those persons who have drug problems and obtain help for them.

Following a brief discussion, Senator Bryan moved a do pass.
Seconded by Senator Gojack.
Motion carried unanimously.

SB 74 Amend provisions for disposition of funds in joint tenancy accounts.

Senator Close informed the Committee that attorney Fran Breen requested that the Committee delay testimony on this matter in that he is under-going oral surgery and would not be able to testify at this time.

Gino DelCarlo, First National Bank of Nevada, stated that from a banking standpoint this was more a practical question of setting up accounts rather than a legal problem.

The Committee requested that Frank Daykin, Legislative Council Bureau, research this matter and report back to the Committee at a later date.

No action was taken at this time.

SB 66 Amends administrative proceedings in Department of Motor Vehicles.

For further discussion see Minutes of Meeting, January 25, 1977.

Senator Dodge moved to amend Section 2, subsection 3, line 18 to 15 and 30 day consensus rather than 60 days; and to retain Section 13 and amend NRS 483.520 as follows:

"Any person denied a license or whose license has been cancelled, suspended or revoked by the department shall have the right to an administrative hearing held in accordance with the provisions of the Administrative Procedures Act."

Seconded by Senator Ashworth.
Motion carried unanimously.

Senator Dodge further moved, in order to crystalize a difference of opinion, to accept the proposed amendatory language of Section 3, subsection 2, lines 38 and 39.

Seconded by Senator Gojack.

Motion carried. The vote was as follows:

VOTING AYE:	Senator Close	VOTING NAY:	Senator Sheerin
	Senator Dodge		Senator Bryan
	Senator Foote		
	Senator Gojack		
	Senator Ashworth		

Senator Dodge moved to amend and do pass. The motion was seconded and carried unanimously.

Minutes of Meeting
January 26, 1977
Page Six

There being no further business, the meeting was adjourned.

Respectfully submitted,


Cheri Kinsley, Secretary

APPROVED:

SENATOR MELVIN D. CLOSE, JR., CHAIRMAN