

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING

JANUARY 28, 1977

The meeting was called to order at 9:05 a.m.. Senator Close was in the chair.

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

ABSENT:

SB 45 Permits person sentenced to life imprisonment without possibility of parole to request to be executed.

Testimony was presented before the Committee by the following:

Senator William Hernstadt stated the reason he was introducing this bill was because of his feelings on capital punishment. He believes in the school of thought "an eye for an eye, and a tooth for a tooth". This would apply only when the person was imprisoned for murder. If he was imprisoned for life for any other crime, this could not apply. Also, that somewhere during the proceedings the person had acknowledged his guilt, either by signed confession, pled guilty, or in the document asking for death. He feels the law is inconsistent in the pattern of the death penalty. If the state is going to keep a person alive who is guilty, then how can the state put to death a person who might be innocent. He feels it is a question of logical and moral consistency. He felt that protection for the mental capacity of the individual came in the wording, "If he (the judge) finds the conditions set forth in this section are satisfied and the defendant is of sound mind,". He also felt it would save the taxpayers money. He stated it was not a suicidal alternative but rather an alternate and appropriate punishment if the person alleges his guilt. The difference between this bill and a mandatory death bill would be to give a person the choice of a greater penalty rather than a lesser penalty.

Frank Daykin, Legislative Council Bureau stated that in this case a Defense Attorney who given a statutory procedure for this, undertook accordingly would be acting justifiably on behalf of his client, but that does not prevent someone springing in from the outside. Complications could arise but it would be constrained within

time limits. In all cases there would be extensive psychiatric examination of the defendant before this stage is reached. He felt there would be no need for council, because at this point there would no longer be a need to establish guilt or innocence. It would only be a statutory request for the court to follow a certain procedure.

Bud Campos, Parole and Probation stated that through interviews with persons on death row the one outstanding characteristic was that they do not think they are going to die. They all think the other guy is. He also stated that there have been no studies made as to the inmates thinking on death row, as to such an issue as this.

Senator Ashworth moved an indefinite postponment.
Seconded by Senator Gojack.
Motion passed unanimously.

SB 48 Changes limit of jurisdiction of justices' courts over certain actions.

Testimony was presented before the Committee by the following:

Senator Hernstadt stated that this bill, with the passage of the SJR and the vote of the people, would allow the legislature to set different limits in the district courts to raise the \$300 limit to \$1,000. This would also include small claims.

Senator Dodge stated that he would like to suggest that the limit be raised, possibly to \$5,000. He felt that the \$1,000 on a money demand was too low.

Senator Bryan stated that you could have a section, other than money demands, that would be limited to \$1,000 and have the money demands at a higher limit. If the figure got too high, then it wouldn't be a small claims court.

Senator Sheerin stated that here we are talking about two seperate distinct courts, small claims court and justices court. The same people preside but they are two courts. Perhaps you could have small claims up to \$1,000 and the justices court up to \$5,000. He felt some further thought should be given to this.

Senator Dodge moved to defer this for further study.
Senator Sheerin Seconded.
Motion carried unanimously.

SB 66 Amends administrative procedures in department of motor vehicles.

Frank Daykin stated he just had a few additional comments on this bill. He said that an amendment was brought down relating to SB 66, which was added to that bill. A reference to holding hearings pursuant to administrative procedure. One of the elements of the report of the review of administrative regulations was that the legislature finally recognized what wasn't thought of 10 or 12 years ago when the Administrative Procedure Act was made generally applicable in contested cases. It is a law of general applicability to all the executive agencies, except those specifically exempt, and therefore any reference to any other statute is unnecessary, because Administrative Procedure Act already cover the subject and possibly is mischievous. Because, if we say agency X must follow the Administrative Procedure Act, what about agency Y. There is a long bill to clean out those unnecessary references, and while statutes enacted by the Committee are within your discretion, "I would respectfully submit not creating any new references if you are going to go with that concept". He stated he would recommend leaving it alone as the Administrative Procedure Act automatically does cover such acts as judicial review. He stated that 483.520 sets out some of the same procedures and if it were simply repealed, the Administrative Act would govern without express reference.

Senator Close and the Committee concurred and asked that the amendments be drafted with that thought in mind.

SB 60 Prohibits certain deceptive carnival games.

Testimony was presented before the Committee by the following:

Lt. Dan Coppa, Washoe County Sheriffs Dept., assigned to investigative supportive unit of that department stated that after reviewing the bill he found it somewhat lacking in substance in terms of not being too clear or complete as to specific kinds of activities or games. There are no provisions for the public to see specific rules or regulations by which the game should be operated. No provision either, for the games liable for inspection by law enforcement or a proper authority. It also raises the question that if a game was liable for inspection or confiscation would it be proper to enter that booth. He felt the reference to fortune telling was bad, as most portions of society accept it and therefore the deletion of that part would be advisable. He feels the whole scope is too broad and needs to be narrowed down.

Senator Bryan raised the question as to whether even an illusionist or magician could operate legally. He

the whole aspect of this bill should be given further consideration.

After further discussion among the Committee Senator Close asked that the amendments be given to Senator Gojack for further changes if any, with a report back to the Committee at a later date.

SB 75 Removes restrictions on sale or creation of security interests in community property automobiles

Daryl Capurro, Executive Director of the Nevada Franchised Automobile Dealers Association, stated that most of SB 75 was clean up. He stated that as the law stands now an automobile may be sold by the person who's name appears on the title without regard to the spouse, if there is one, as to community property rights. There is no problem if the title is vested in both parties names. He feels that because of a case, there is unfair placement on the dealer of trying to enforce the law themselves. He feels that it is too difficult to obtain information as to marital status and there should be a law similar to Washington and California where automobiles are not placed in the same language as community household goods, appliances, furnishings and furniture. The responsibility should be placed on the spouse to see that the certificate of ownership be issued properly. Therefore when evidence of title shows only one name then the signature of that person would be sufficient for sale.

Senator Ashworth moved "do pass".
Seconded by Senator Bryan.
Motion carried unanimously.

SB 80 Requires execution by both spouses to create security interest in or sell mobile home held as community property.

Testimony was presented before the Committee by the following:

John Ciardella, Department of Motor Vehicles stated his only comment on SB 80 was that it should be handled the same way as SB 75. A signature should be sufficient.

Senator Dodge brought up the fact that the mobile home was a little bit different than a car as it was somebody's home. The industry should have some responsibility to see that the home was titled correctly, as community property if that were the case, when it was first purchased.

Senator Sheerin stated that although the mobile home is

is still titled by the Dept. of Motor Vehicles, during the last session the Legislature gave jurisdiction to the Fire Marshall. He wondered if there was to be any more action to be taken in this regard.

Senator Bryan stated that there was a possibility that the mobile home may come under the Department of Commerce.

Senator Dodge thought it would be a good idea to have some of the mobil home dealers testify on this.

Senator Dodge moved to defer this bill.
Seconded by Senator Ashworth.
Motion carried unanimously.

SB 84 Permits courts to assume informal supervision of probationers.

Bud Campos, Parole and Probation stated that although he could see some merits to this bill he wished to withdraw it at this time.

Senator Sheerin moved for an indefinite postponement.
Seconded by Senator Dodge.
Motion carried unanimously.

SB 85 Clarifies ineligibility of kidnapers for probation.

Testimony was presented before the Committee by the following.

Bud Campos, Parole and Probation stated that under NRS 176.185 there had been a difference of opinion as to whether second degree kidnapping falls under this law. It states there will be no probation for first and second degree murder, but only refers to kidnapping. As a result some courts will grant probation for second degree kidnapping and others wouldn't. He felt that kidnapping was a very serious offense and the law should be clarified.

Senator Close stated that he could see first degree as being non-probationable but thought that there should be some possibility of having second degree as probationable.

Senator Bryan felt that because in second degree kidnapping they could be held without any threat or force to life, it was a little too severe. He pointed out this could be a divorced parent picking up a child that did not have legal custody.

After some discussion of the Committee members they agreed that the law should state that kidnapping in the first degree should not be probationable but second degree kidnapping should be probationable.

Senator Bryan moved ammend and "do pass".
Seconded by Senator Ashworth.
Motion carried unanimously.

SB 54 Authorizes payment of lodging allowances to jurors under certain circumstances.

Senator Sheerin stated that this bill was at the request of Judge Beko of Tonopah. This would only entail anything over 50 miles. Also, he has had a request to increase the payment of jurors from \$15 to \$25 a day.

The Committee after some discussion decided that they should get some input from Robert Broadbent on this.

Senator Close asked for recommendations and advice from the Committee as to what position should now be taken in the gaming area.

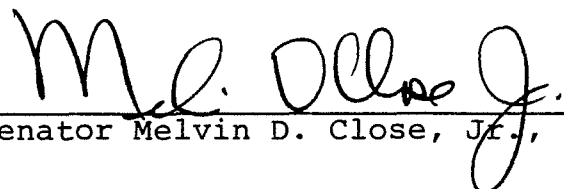
Senator Ashworth stated that now that there had been some discussion on reg. 6, credit, operations and so forth, he felt the next procedure should be to have some corporation lawyers and corporation accountants testify on reg. 6. He also thought it was quite important that the Committee make arrangements to tour some establishments and visit counting rooms and accounting offices.

After some discussion Senator Close stated he would start lining up testimony from licensees in the areas of licensing (multiple), foreign gaming, costs and expense of licensing.

Respectfully submitted,


Virginia C. Letts, Secretary

APPROVED:


Senator Melvin D. Close, Jr., Chairman