

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING

MARCH 11, 1977

The meeting was called to order at 8:15 a.m. Senator Close was in the chair.

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

ABSENT: None

SB 190 Provides for reporting and investigation of certain medical malpractice claims.

Andy Gross, Legislative Counsel Bureau stated he just had a little clean up on this. (see malpractice minute book). Mr. Rottman wants the language added "liability Insurance" which was inadvertently left out of sub-section 6. Also, the fiscal note would be about \$1,995 instead of \$7,000, so it won't have to be re-referred to finance. The other thing is to tighten up the term organization and actually define what we mean. They found out that they don't need the insurability language because those people are covered under the chapter on essential insurance, so they are covered against civil liability in the insurance chapter. Then they have spelled out who they mean by saying "any medical review panel of the hospital medical, legal screening panel or medical society which". They are also changing, concerning the discipline, to disciplinary action.

The Committee had no objections.

SB 162 Revises law on compensation for victims of crime.

Milan Wilnoff, representing the American Civil Liberties Union stated that they have always been involved in efforts to improve prison condition and to protect the rights of inmates of those institutions and therefore they have been accused of not being sensitive to the victims. But they wish to go on record as supporting SB 162. Few victims have ever been revenged or compensated by the incarceration or execution of their assailants. In the present system it is not victim oriented, but offender oriented. It concentrates on defining crimes and punishing the individuals that have committed those crimes. but devotes very little attention to the victim. A victim must be entitled to medical, psychological and financial aid. Therefore, they support SB 162 because they believe it proposes to provide rehabilitation and economic aid for all victims of all types of crime.

Daryll D. Luce, Representative for the Christian Science Churches in the State of Nevada stated they are a little bit concerned about SB 162. If this bill is passed you are proposing to delete a portion of the language that was put into this particular statute several sessions ago that protects the rights of people who rely on non-medical means for healing. They would no longer be able to be reimbursed. His suggestion is that "the non-medical remedial care and treatment rendered in accordance with a religious method of healing" be left in. Perhaps it could be put on page 3 line 7 to read "to include". They just want to make sure that they have the same rights as other people.

Mimi Giannini, American Friends Service Committee stated that criminal justice has always been their concern, but they are not concerned only with the prisoner in this system. We are concerned with the victim too. In the spring of 1976 we had a conference called Crimes, Victims and Justice, where legislators and law enforcement officials and community people got together and talked about the situation that sometimes neglects the victim completely. We are very encouraged to see that the Legislature is considering this bill and supports the concept of victim compensation, since this is an aspect that is often neglected in the system. We were extremely interested in the existence of AB 367, that establishes restitution to the victim, by the person convicted of the crime. This not only compensates the victim but it also give the convicted person a practical alternative to imprisonment. Basically we hope that more changes can be made in victim compensation laws, but feel this is a good start.

Del Frost, Administrator, Human Resources, Rehabilitation Division stated he was not here to testify for or against SB 162, but to provide the Committee with some information on the bill and provide an alternative to consider. They are strongly in favor of a bill for victims of crime, but did not propose the legislation they submitted last time again this session, because he felt there were a lot of other priorities and didn't feel the time was right to get it through. However, if a bill is going to be considered and legislation is going to be considered on this, then he would certainly like to have the legislation they submitted last time be reconsidered. He had some copies which he gave out to the Committee (see attachment A). He feels there are some problems with 162. It is too narrow, it does not provide for the administrative procedures that need to be established in order to administer such a program. The fiscal note (see attachment B), was taken from a program in Maryland and reduced down compared to the population for Nevada. First it puts the responsibility on the Board of Examiners to make the determination of who is eligible in terms of who is eligible for rehabilitation and he doesn't know if they are qualified experts. I don't know that there are any rehabilitation experts on Mr. Barrett's staff either

and he does the work for the Board of Examiners. So he felt concern about the expertise of the people making the determination of who is eligible for rehabilitation services.

Senator Gojack stated that the thrust was that the rehabilitation division itself would make the determination in terms of the extent of injury. The Board of Examiners would make the final determination in terms of money.

Del stated they then would strongly support that and hope that the fiscal arrangement could be worked in so that the funds would be available to do that. He felt there were problems with having the Rehabilitation Division do the determination, because it is a federally state funded program. So any new service that is provided that is strictly a state program has to be supported with state dollars. Otherwise it would invite a federal audit exception and they would lose federal funds. So what we propose in the draft, as an administrative cost estimate, would be attached to our having our federally funded rehabilitation counselors do the determination. It is a minimal cost, about \$8,000 a year. The major argument to this body in considering this type of legislation is, that under the present arrangement we have a cash settlement kind of approach and most other states have this. We have not been able to gather information on any other state that has the kind of program that we are proposing, we would be the first state to get into that. And he feels we should lead the way as this is a responsible way to deal with this problem. To give a person up to \$5,000 cash doesn't do a thing for them. It may give them a little money to recoup the medical costs that they have been out, but if they are still left injured and incapable of earning a living they will need something. You had better give them some help and teach them to budget, so they get off the welfare rolls and get into productive employment. Another problem is that there are a lot of victims who are not qualified for various service programs that already exist. For example if a person possesses a physical or mental disability that precludes them from being employed, they are eligible for vocational rehabilitation if they are 15 years of age or older. A person who is over 60 wouldn't qualify. Under crippled children's services if it is congenital they are eligible for services and this would cover the age group under 15. What about the little 7 year old girl in Las Vegas whose throat was slashed her vocal chords severed, and is going to require long term physical restoration services and will be undergoing speech treatment and therapy for a long time. The little old lady that gets her purse snatched and her arm dislocated. These are the types of people that need to have some assistance. He feels that if we are going to have this type of legislation we should look to the people that are not covered by existing services and programs.

Senator Close stated that we would be hearing this again next Tuesday and perhaps he could come back with some language and amendments prepared to submit at that time.

Del Frost stated he just had one more thing to say and that is if they do consider what he proposes he would recommend that this be a pilot program. He feels this is new ground and that if the state gets into this area it should be on a pilot basis. What his department proposes is a \$200,000 one shot appropriation for the biennium. The money that is not expended, would revert back at the end of the biennium and that they be ordered to come back to the Legislature with a cost benefit analysis, to justify its existence.

AB 286

Includes environmental surveys among those for which parties may enter property to be condemned under eminent domain.

Don Crosby, Deputy State Highway Engineer stated that this particular piece of Legislation was proposed by the Highway Department. They find that with the federal mandate of the environmental impact statements for proposed new highway routes they have to consider the historical, archaeological finds along any particular routes for preservation. It is necessary that they be allowed to have a qualified archaeologist make a determination whether a particular find is significant or not. If they are not allowed the right to go on any particular piece of property to make a determination, then they cannot complete the impact statement and could lose federal funds. The way the language of the law reads, we can make land surveys and make soil tests, but we cannot make archaeological surveys. There are several places in Nevada where these finds are creating problems. We have to know at the location stage when we are considering alignment so we can make adjustments in the alignment if necessary.

Steven Stucker, City of North Las Vegas stated they are in favor of the bill. It eliminates a few of the problems before they would occur. Environmental impact statements are required on almost any project you can think of nowadays. With industrial expansion it would be required, and they have a couple of major street expansions in their area. This would eliminate any liability for a trespass.

AB 224

Amends certain session laws to correct inappropriate references.

Senator Ashworth moved a do pass.
Senator Gojack seconded the motion.
Motion carried unanimously.

AB 234

Eliminates certain conflicts in provisions of criminal law.

Senator Ashworth moved a do pass.
Seconded by Senator Foote.
Motion carried unanimously.

AB 238 Removes duplicative and conflicting provisions and corrects obsolete language relating to evidence.

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

AB 286 Includes environmental surveys among those for which parties may enter property to be condemned under eminent domain.

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

Senator Close stated that Geno Menchetti was here to give some more testimony on the death penalty which they would hear at this time.

Geno stated that the three statutes that have been upheld have been laundry list type statutes. Georgia, subsequent to when the case arose and before it was heard by the Supreme Court, amended its statute to include any first degree murder. The court noted it had been amended in the Gregg case and then went on and dealt with the issue. So you could argue at least that they have approved that kind of a statute, but haven't specifically said that. It is arguable, back in '72, we were concerned about getting that nice little list, because that is what we thought they required then. We thought we had to lineate and narrow the categories of crimes that would be subject to that type penalty.

Senator Bryan stated that what we are trying to do then is to develop a constitutional statute that would pass the Supreme Court. Part of the argument was the justices went all over it, said it is cruel and unusual no matter what you do with it, and then four other justices for different reasons, concurred with the result. So I thought what we were trying to do in using the laundry list approach was not that the court required the list, but that if you were going to make a mandatory statute you wanted to narrow the focus of the statute.

Geno stated that was true. But then three years later we found out that is not what they meant to say. What we are doing now is our best guess at what we think they want.

Senator Raggio stated that he preferred the approach to restore a classification which was similar to first degree murder. He feels the specified list where you try to do that came about because of the initial decisions where it was felt they had to make a mandatory sentence without any discretion on the part of the jury. Therefore, they selected those specific types of crimes because those were the only ones they felt could have a mandatory sentence. He stated he had never been comfortable with this capital punishment. It seems to him to be a kind of disjointed approach, and having dealt with the matter over the years, the first degree murder was a specific category, it was capable of not only definition but also of encompassing the types of homicide or matters which you just couldn't

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pinpoint clearly if you had to write it out. He thought it had flexibility to it that accommodated those types of offenses. He thought it specific enough by definition, and we now call it aggravated murder, which is appropriate.

Senator Sheerin stated his feeling is that we cut these two bills in half. Take the top half of 220, go with that with the absence of the laundry list, and the back half of 403. He feels AB 403 is better when you are getting to the aggravated hearing where the burden of proof should be.

Senator Bryan stated that he didn't know about AB 403 but he definitely agrees he doesn't want to favor the non-categorical approach as the first half is.

Senator Close told Frank Daykin, who had been called to sit in on the discussion, that the Committee was trying to determine which concept of capital punishment to go with. Whether the laundry list or the law of 319.72. He would like Frank to express his opinion.

Frank Daykin, thought we could go with the 319.72 concept if we add to it specific legislative standards for what are considered aggravating and mitigating circumstances and make some appropriate provision for the way in which those aggravating and mitigating circumstances will be weighed by the trier of fact. Both of the bills before you do meet that. Senator Raggio's bill definitely meets the test and weighing AB 403 which is the laundry list on capital offenses, also meets the test of enumerating aggravating and mitigating circumstances. He stated he had more trouble in certain areas of AB 403 than with SB 220. The thing that bothers him in 403 is the possibility that the trier of fact, especially if it were a jury and not properly instructed, might be thought to have considered one of the definitional circumstances here that make an offense capital murder in the first place. Also, an aggravating circumstance from the list might be thought to have imposed the death penalty more or less on that point.

Senator Raggio asked if he thought we were alright on the burden part. In SB 220 the punishment, on page 2, every person convicted would be punished by death unless the mitigating circumstances proved by the defendant, at the penalty portion, outweigh the aggravated nature of the offense. Then in AB 403, all of the persons convicted of any of the list shall be punished by death or imprisonment, and there is no burden indicated.

Frank stated it reads "shall not impose a sentence of death unless it finds at least one aggravating circumstance and further finds that there are no mitigating circumstances sufficiently substantial to outweigh the aggravating circumstance". That language could easily be introduced into SB 220 if you prefer the first degree murder approach as opposed to the three degrees.

Senator Sheerin stated he was definitely opposed to the concept that if a person is in prison and commits a murder he is automatically given a sentence of death. This is just putting another burden

on the poor people and there is no way he can support this.

Geno stated that what he is referring to is that in their bill they left mandatory, the death sentence for the guy in prison who is doing life without or awaiting a sentence of death, because they felt that was the only way to have a deterrent. The Legislative Counsel bureau seems to feel this is unconstitutional, but I disagree.

Frank stated he never said it was unconstitutional. He feels the Supreme Court left the question open in their various decisions. The point is that he was trying to get across was that he was not going to try and outguess them.

Senator Dodge stated he has always been in favor of drafting general legislation rather than going with a laundry list, whether it is this or anything else.

Senator Foote stated that she too was in favor of a non-laundry list.

Senator Close stated then they would go with SB 220 and commence modification on that.

Frank stated we could say every person convicted of murder of the first degree shall be punished by death and then say "if aggravating circumstances are shown, unless the mitigating circumstances outweigh.

After discussion by the Committee and going through the list it was decided that they would go with part of SB 220 and part of AB 403, as far as mitigating circumstances. Frank Daykin will get all of the drafts together as to the wishes the Committee had offered so that the language would be broader and reflect that.

Senator Raggio stated that he would also urge that if it is a case to be tried before the court that the three judge concept be retained.

Frank stated this had been done in SB 220 section 10 and they could also restore the plea of guilty with a specification of degree with the consent of the DA. Also on the subject of hearsay he felt the Supreme Court had not accepted the statutes which deal with this now.

Senator Raggio stated that if you don't allow it in the penalty hearings, it would be almost an impractical way to have the hearings. Most of the hearsay would be reports of transcripts, or psychiatrist reports, that had examined him, and he doesn't see how you could do it without these. When you defend against an insanity defense it is impossible to proceed without hearsay testimony.

Frank stated you first determine guilt under the strict rules of evidence, then you hold the penalty hearing. At the penalty hearing this broader concept comes in of getting all the information relevant to the defendant, even though it would not have been admissible on the issue of his guilt.

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Senator Close stated that as they had to be downstairs, they would continue this on Monday morning at 10:00 a.m., and he would like to have Frank, Geno and Senator Raggio there if possible so this could be finished at that time.

Meeting was adjourned at 10:55 a.m.

Respectfully submitted,


Virginia C. Letts, Secretary

APPROVED:

SENATOR MELVIN D. CLOSE, JR., CHAIRMAN

PROPOSED ALTERNATIVE TO S. B. 162

Section 1. There is hereby appropriated from the state general fund to the rehabilitation division of the department of human resources for a program of providing rehabilitation services to victims of crimes:

1. The sum of \$200,000 for the biennium ending June 30, 1979, for the operating and payment costs of this program.

Sec. 2. Unencumbered balances of the appropriation made in section 1 shall not be committed for expenditure after June 30, 1979, and shall revert to the state general fund.

Sec. 3. A cost-benefit analysis on this program will be presented by the rehabilitation division of the department of human resources to the 1979 session of the Nevada State Legislature for the purpose of justifying continuation of this program.

Sec. 4. Chapter 217 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 9 inclusive, of this act.

Sec. 5. "Administrator" means the administrator of the rehabilitation division of the department of human resources.

Sec. 6. "Division" means the rehabilitation division of the department of human resources.

Sec. 7. "Physical or mental disability" means a temporary or permanent physical or mental condition which substantially limits, contributes to limiting or, if not corrected, will probably result in limiting a person's activities or functioning.

Sec. 8. Whoever knowingly obtains or attempts to obtain, or aids or abets any person to obtain by means of a willfully false statement or representation or other fraudulent device, assistance to which he is

not entitled, or assistance greater than that to which he is entitled, with the intent to defeat the purposes of this chapter, is guilty of a gross misdemeanor.

Sec. 9. "Victim" means a person who is physically injured or killed or sustains a physical or mental disability:

1. While attempting to prevent the commission of a crime not initially involving:

[(a) Self-defense of the life, limb or property of the victim:]

[(b)] (a) Defense of the life, limb or property of a relative of the victim:

[(c)] (b) Defense of the life, limb or property of an individual or institution based upon a preexisting legal obligation on the part of the victim so to defend; or

[(d)] (c) An arrest or attempted arrest of a suspected criminal for any offense), covered by paragraphs [(a), (b) or (c)] (a) or (b) of this subsection.

2. While attempting to aid a police officer to arrest a suspected criminal for any offense other than those covered by paragraphs [(a), (b) or (c)] (a) or (b) of subsection 1.

3. As the result of the commission of a crime.

Sec. 10. NRS 217.100 is hereby amended to read as follows:

217.100. 1. Any person eligible for compensation under the provisions of this chapter may apply to the board for such compensation. Where the person entitled to make application is:

(a) A minor, the application may be made on his behalf by a parent or guardian.

(b) Mentally incompetent, the application may be made on his behalf by a parent, guardian or other person authorized to administer his estate.

2. Prior to a hearing on any application, the applicant shall submit reports, if reasonably available, from all physicians or surgeons who, at the time of or subsequent to the victim's injury, disability or death, treated or examined the victim in relation to the injury or disability for which compensation is claimed. If, in the opinion of the board, reports on the previous medical history of the victim or an examination of the victim and report thereon or a report on the injury, disability or cause of death of the victim by an impartial medical expert would aid the board in its determination, the board may order such reports.

Sec. 11. NRS 217.110 is hereby amended to read as follows:

217.110 1. Upon receipt of an application for compensation, the board [shall] may provide for an investigation and may fix a time and place for a hearing and shall give notice thereof to the applicant.

2. The board or its hearing officer may hold such hearings, sit and act at such times and places, and take such testimony as it or he may deem advisable. The board or its hearing officer may administer oaths or affirmations to witnesses. The board has full powers of subpoena and compulsion of attendance of witnesses and production of documents; but no subpoena may be issued except under the signature of a member of the board. Application to any court for aid in enforcing such subpoena may be made in the name of the board only by a member thereof. Subpoenas may be served by any person designated by the board.

3. The applicant and any other [person having a substantial interest in the outcome of a] party to the proceeding may appear and be heard, produce evidence and cross-examine witnesses in person or by his attorney. The board or its hearing officer also may hear other persons who may have relevant evidence to submit.

4. Any statement, document, information or matter may be received in evidence if, in the opinion of the board or its hearing officer, it

contributes to a determination of the claim, whether or not such evidence would be admissible in a court of law.

5. Orders and decisions of the board regarding compensation are final.

Sec. 12. NRS 217.190 is hereby amended to read as follows:

217.190 The board may order the payment of compensation in accordance with the provisions of NRS 217.010 to 217.270, inclusive [,] [for physical injury to or death of the victim which resulted from an attempt to prevent the commission of crime or to arrest a suspected criminal or aiding or attempting to aid a police officer to do so.] If physical or mental disability or physical injury to or death of a person results from aiding or attempting to aid a police officer as provided in this section, no compensation may be allowed by the board unless [such police officer files] a police report is filed with the board as an affidavit in support of any claim which may be made.

Sec. 13. NRS 217.200 is hereby amended to read as follows:

217.200 1. The board may order the payment of compensation and the award of a governor's certificate for meritorious citizen's service to a victim as defined in subsections 1 and 2 of NRS 217.070 for:

(a) Medical expenses, and nonmedical remedial care and treatment rendered in accordance with a religious method of healing, actually and reasonably incurred as a result of the personal injury or death of the victim;

(b) Loss of earning power, actually and reasonably incurred as a result of the total or partial incapacity of the victim;

(c) Pecuniary loss to the dependents of a deceased victim;

(d) Funeral expenses, not in excess of \$1,000, which are actually and reasonably incurred as a result of the death of the victim; and

(3) Any other loss which results from the personal injury, disability or death of the victim and which the board determines to be reasonable.

2. An award of compensation may be made subject to such terms and conditions of the board considers necessary or advisable with respect to payment, disposition, allotment or apportionment of the award.

Sec. 14. NRS 217.210 is hereby amended to read as follows:

217.210 1. No order for the payment of compensation may be made unless the application is made within 2 years after the date of the personal injury, disability or death on which the claim is based, and the personal injury, disability or death was the result of an incident or offense which was reported to the police within 5 days of its occurrence or, if the incident or offense could not reasonably have been reported within such period, within 5 days of the time when a report could reasonably have been made.

2. The limitation contained in this section may be waived upon a satisfactory demonstration by the applicant of his reason for failure to comply.

Sec. 15 NRS 217.220 is hereby amended to read as follows:

217.220 1. Compensation shall not be awarded if the victim:

(a) Is a relative of the offender;

(b) Was, at the time of the personal injury, disability or death of the victim, living with the offender as a member of his family or household or maintaining a sexual relationship, whether illicit or not, with such person or with any member of the family of such person;

(c) Violated a penal law of this state, which caused or contributed

to his [injuries] injury, disability or death; or

(d) Was injured, disabled or killed as a result of the operation of a motor vehicle, boat or airplane unless such vehicle, boat or airplane was used as a weapon in a deliberate attempt to harm the victim.

2. No compensation may be awarded in an amount in excess of \$5,000.

Sec. 16. NRS 217.240 is hereby amended to read as follows:

217.240 Whenever an order for the payment of compensation for personal injury, disability or death is made pursuant to NRS 217.010 to 217.270, inclusive, the board is, upon payment of the order, subrogated to the cause of action of the applicant against the person or persons responsible for such injury, disability or death and may bring an action against such person or persons for the amount of the damages sustained by the applicant. If an amount greater than that paid pursuant to the order is recovered and collected in any such action, the board shall pay the balance to the applicant.

Sec. 17. Chapter 217 of NRS is hereby amended by adding thereto the provisions set forth in sections to, inclusive, of this act.

Sect. 18. The provisions of sections 18 to 30, inclusive, of this act, shall be administered by the rehabilitation division of the department of human resources.

Sec. 19. 1. Any person eligible for rehabilitation services under section (18 to 30) inclusive, of this act may apply to the division for such services.

2. The applicant shall submit reports, if reasonably available, from all physicians or surgeons who, at the time or subsequent to the applicant's injury or disability, treated or examined him in relation to

the physical or mental disability for which services are claimed.

Sec. 20. An applicant for rehabilitation services who is eligible for the benefits of the state vocational rehabilitation program under chapters 426 and 615 of NRS shall be referred to the appropriate bureau of the division for assistance under that program.

Sec. 21. Rehabilitation services under chapters 426 and 615 of NRS shall not be provided to any person who:

1. Violated a penal law of this state, which caused or contributed to his injury or physical or mental disability.

2. Was not a resident of the State of Nevada and present in the State of Nevada at the time his injury occurred.

Sec. 22. 1. If any person has been convicted of any offense with respect to an act on which a claim for rehabilitation services is based, proof of that conviction is conclusive evidence that the offense has been committed, unless an appeal or any proceeding with regard thereto is pending.

2. The division may provide rehabilitation services to an applicant even though the person causing the injury or physical or mental disability:

(a) Has not been arrested, prosecuted or convicted of the offense causing the injury or disability; or

(b) Was legally incapable of forming the intent necessary to make the act which caused the injury or disability a criminal offense.

Sec. 23. In determining whether to provide rehabilitation services, the division may consider:

1. The provocation, consent or other behavior of the victim which directly or indirectly contributed to his injury or physical or mental disability;

2. The prior case or social history, if any, of the victim;
3. The need of the victim or his dependents for financial aid; and
4. Any other matters the division considers relevant.

Sec. 24. 1. Except as provided in subsection 2, an applicant for rehabilitation services is eligible to receive compensation for any reasonable medical fees, in excess of \$100, which he has incurred as a result of the physical or mental disability upon which his application is based.

2. The \$100 limitation may be waived by the administrator if the applicant can demonstrate a hardship.

3. An award of compensation for such fees may be made subject to such terms and conditions as the division considers necessary or advisable with respect to the payment, disposition, allotment or apportionment of the award.

4. An award of medical fees shall not be made under this section if an award for medical expenses was made pursuant to NRS 217.010 to 217.260, inclusive.

Sec. 25. In determining whether to provide rehabilitation services, the division shall require that the applicant seek aid from any alternative source which has become available as a result of the incident and shall deduct from the division award any moneys or services so received.

Sec. 26. 1. The division administrator shall promulgate rules and regulations for approval by the state board of examiners, for procedures to be followed in the filing of applications and for proceedings before the division concerning victims of crimes for rehabilitation services.

2. If an application for rehabilitation services is denied, the case is contested within the meaning of chapter 233B of NRS.

Sec. 27. 1. Except as provided in subsection 2, rehabilitation services under this chapter shall not be granted unless:

(a) The application therefore is filed within 2 years after the date of the incident or offense upon which the claim is based; and

(b) The injury or physical or mental disability was the result of an incident or offense which was reported to the responsible law enforcement agency within 5 days after its occurrence or, if the incident or offense could not reasonably have been reported within such period, within 5 days of the time when a report could reasonably have been made.

2. The Administrator may waive the requirement of this section upon the demonstration by the applicant of satisfactory reason for failure to comply.

Sec. 28. 1. Whenever rehabilitation services are provided to an applicant, the department shall be subrogated to the cause of action of the applicant against the person or persons responsible for the applicant's injury, and may bring an action against such person or persons for the amount of damages sustained by the applicant.

2. If an amount greater than the value of assistance, including litigation costs, provided by the division is recovered and collected in any such action, the division shall pay the balance to the applicant.

Sec. 29. Orders for rehabilitation services pursuant to sections 18 to 30, inclusive, of this act, may be made only as to injuries or physical or mental disabilities resulting from incidents or offense which occur after July 1, 1977.

Sec. 30. Moneys to carry out the provisions of sections 15 to 27, inclusive, of this act, shall be provided by legislative appropriation from the state general fund. All claims shall be approved by the administrator and paid as other claims against the state are paid. In the administration of rehabilitative services the division may accept funds from any source, either public or private.

FISCAL NOTE

BDR _____
A.B. _____
S.B. _____

Date Transmitted _____

• STATE AGENCY ESTIMATES Date Prepared _____

Agency Submitting _____

Revenue and/or Expense Items	Fiscal Note 1976-77	Fiscal Note 1977-78	Fiscal Note 1978-79	Continuing
Services to victims	-0-	\$ 92,937	\$ 93,023	?
Administrative assessment	-0-	7,063	6,977	?
Total	-0-	\$100,000	\$100,000	?

Explanation (Use Continuation Sheets If Required)

"Services to victims" line item may include reimbursement for Rehabilitation Coordinator expense based upon actual cost for time spent on victim's case. "Administrative assessment" represents 7.6% and 7.5% respectively for indirect cost charges of Agency administration and support services.

Local Government Impact YES NO

(Attach Explanation)

Signature _____

Title _____

• DEPARTMENT OF ADMINISTRATION COMMENTS Date _____

Signature _____

Title _____

• LOCAL GOVERNMENT FISCAL IMPACT Date _____
(Legislative Counsel Bureau Use Only)

Signature _____

Title _____