

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING

MARCH 25, 1977

The meeting was called to order at 8:00 a.m. Senator Close was in the Chair.

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

ABSENT:

AJR 21 Proposes to amend Nevada Constitution to expand classification of crimes for which bail may be denied.

Assemblyman Tom Hickey testified on behalf of this measure. It calls for imprisonment without possibility of parole when the proof is evident or the presumption is great. This was in the law until the recent U. S. Supreme Court rulings regarding capital punishment. If the new death penalty bills presently before the legislature should pass, there would be no need for this amendment to the Constitution.

In response to a question from the Committee regarding the constitutionality of this, Frank Daykin, Legislative Council Bureau stated that the only question of constitutionality would arise under the federal constitution and that has never said that there is any rigid or limited category of offenses in which bail must either be given or denied. Our constitution and those of a number of other states have provided that there will be no bail with respect to a capital offense. This amendment was proposed in light of the possibility that capital offenses would be very narrowly limited. The fact that the punishment is changed does not make the underlying offense any less serious. Therefore, it would seem to be permissible under the federal constitution now, if it had been in the past, to deny bail for the same offenses. This denies bail for a more limited class of offenses than before and that change should not run counter to the 8th Amendment.

Senator Dodge moved a do pass.
Seconded by Senator Sheerin.
Motion carried. The vote was as follows:

AJR 21 VOTING AYE: Senator Close VOTING NAY: Senator Gojack
 Senator Dodge
 Senator Foote ABSENT FROM
 Senator Sheerin THE VOTE: Senator Bryan
 Senator Ashworth

SB 260 Limits tort liability of public officers and employees.

For testimony on this measure, see minutes of meeting for March 15, 1977. At that time, the bill was amended and re-referred for final examination.

Frank Daykin, Legislative Council Bureau stated that there was a very good chance of sustaining this as long as a reasonable classification was made. It is not wiping out a cause of action altogether but is just limiting it to a class of persons.

Senator Sheerin moved a do pass.
Seconded by Senator Gojack.
Motion carried unanimously. Senator Bryan was absent from the vote.

AB 8 Permits voluntary cessation of life-sustaining procedures for terminally ill persons.

Senator Sheerin posed the situation where a person who had signed a living declaration was admitted to the emergency room with heart failure, and where putting electrodes on the heart would be a mechanical means of keeping him alive and the attending physician was aware of the declaration, would he then be precluded from administering the electrodes.

Frank Daykin responded that he would not because it says "the attending physician may give weight to the declaration as evidence of his directions." What it amounts to is in that situation, the order to the physician would not be conclusively binding on him. It never really is because there is no liability attached to him if he fails to obey it. Nothing in the law prevents him from either applying or withholding the electrodes.

Senator Dodge stated that he did not see where this bill accomplished anything in that at the present time, a person has the right to refuse extraordinary means of being kept alive. He felt that in the situation where an individual was comatose and being kept alive by machines, that the family should have some say and aside from that situation, all this bill accomplished was to legally complicate the process of dying.

AB 8 Senator Ashworth moved to indefinitely postpone.
Seconded by Senator Dodge.
Motion did not carry. The vote was as follows:

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

In further discussion, it was the decision of the Committee to assign a subcommittee consisting of Senators Bryan, Dodge, Gojack and Sheerin to talk to Frank Daykin about drafting a one-page bill which would give the physician legal protection. It would allow that, if a person had made any living declarator in writing indicating their desire in that respect, that at a later point in time, if they were not able to speak for themselves that that could be given weight by the attending physician as far as his decision to sustain life.

AB 217 Increases filing fees and changes filing requirements for corporations.

Senator Close informed the Committee that he had talked with Secretary of State, William Swackhammer and that he was in favor of this bill, with a few amendments to the fee schedule. He also requested that the requirement of sending letters to every corporation advising them of their right to reinstate, be deleted. He had only had one corporation respond to that and that had been by mistake.

Senator Sheerin stated that he was not in favor of raising the fee from \$40 to \$50 for the smaller corporations in that that is the one that most people use. He felt that the larger corporations should be the ones to make up the difference.

Senator Close indicated that line 15 on page 7 should be amended from \$10 to \$5 to conform it with local corporations. Senator Dodge stated that lines 3-5 on page 3 should also be deleted in that they are in conflict with another bill in the Assembly.

Senator Dodge moved to amend and do pass.
Seconded by Senator Gojack.
Motion carried. The vote was as follows:

VOTING AYE:	Senator Close	VOTING NAY:	Senator Sheerin
	Senator Dodge		
	Senator Foote	ABSENT FROM	
	Senator Gojack	THE VOTE:	Senator Bryan
	Senator Ashworth		

SB 152 Establishes uniform procedure for issuance and enforcement of subpoenas of state executive agencies.

Senator Close informed the Committee that the bill, as originally drafted, would have taken away the investigative subpoena from various agencies, including real estate, and they indicated that that was not their intent. They requested that this be amended to retain that ability. (see attached Exhibit B)

Senator Dodge moved to amend and do pass.
Seconded by Senator Gojack.
Motion carried unanimously. Senator Bryan was absent from the vote.

AB 198 Limits types of offenses for which convicted persons must register with law enforcement agencies.

Assemblyman Robert Barengo informed the Committee that this had been requested by the District Attorney's Association. It repeals numerous minor offenses for which you have to register. He stated that he had talked with Bart Jacka of the Las Vegas Metropolitan Police Department and he had had no objections to the bill.

Senator Bryan moved a do pass.
Seconded by Senator Dodge.
Motion carried unanimously.

AB 354 Eliminates bond requirements for boxing and wrestling contests conducted by amateur athletic clubs.

Assemblyman Robert Barengo informed the Committee that testimony received before the Assembly Judiciary Committee from the Boxing Commission had indicated that this only causes problems for the amateur boxers.

Assemblywoman Eileen Brookman testified to the same.

Senator Bryan moved a do pass.
Seconded by Senator Ashworth.
Motion carried unanimously. Senator Dodge was absent from the vote.

AB 353 Removes permit requirements for foreign copromoters of boxing and wrestling programs.

Assemblywoman Eileen Brookman testified in support of this measure.

AB 353 She stated that this bill had been requested by the Boxing Commission. It would remove the requirement of foreign co-promoters to put up a fee and that pertains mostly to those coming from out of the country for exhibition fights.

Senator Ashworth stated that the term "foreign" applies to anything outside the state of Nevada and he asked if there would be any objection to amending this to limit it to promoters from outside the country only. He will check with some members of the Boxing Commission and report back to the Committee.

No action was taken at this time.

SB 134 Amends procedures concerning persons incompetent to stand trial.

For testimony on this matter, see minutes of meeting for February 2, 1977.

Senator Close informed the Committee that he had talked with Washoe County District Judge, Roy L. Torvinen and that he had stated there was no need for this bill. This is the procedure presently followed.

Senator Ashworth moved to indefinitely postpone.
Seconded by Senator Dodge.
Motion carried unanimously.

SB 162 Revises law on compensation for victims of crime.

For further discussion on this matter, see minutes of meetings for February 4, March 11 and March 18, 1977. Also see attached letter from Howard E. Barrett, Director, Department of Administration regarding the new fiscal note.

Senator Close stated that he was opposed to the bill in that he did not feel it was the state's responsibility to become the insurer of people who are injured while a crime is being committed.

Senator Ashworth concurred with that and stated that he felt that this was a policy decision for the Committee.

The amendments made are as follows:

Amend the top limits to \$5,000 medical-\$5,000 death-\$3,000 rehabilitation.

Delete lines 12-15, page 1.

Insert "Christian Scientist" on lines 45-48, page 2.

Delete lines 6-8, page 3.

SB 162 Senator Gojack moved to amend, do pass and rerefer to Finance.
Seconded by Senator Foote.
Motion carried. The vote was as follows:

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

AB 301 Provides advisory referendum on equal rights amendment.

Senator Bryan stated that the bill should be amended to more clearly specify the language to be used on the ballot so that the people would be aware that this was an advisory referendum only.

Senator Gojack moved to indefinitely postpone.
Motion died for lack of a second.

Senator Foote moved to amend and do pass.
Seconded by Senator Sheerin.
Motion carried. The vote was as follows:

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

SB 203 Revises fees for court-related services.

Senator Bryan indicated that there was a similar bill in the Assembly and moved to indefinitely postpone this measure.
The motion was seconded and carried unanimously.

Senator Ashworth requested that it be entered into the record that Senator Bryan had finally moved to kill a bill.
Seconded by Senator Gojack.
Motion carried.

SB 44 Classifies crime of robbery by degrees.

Senator Dodge stated that he could not support the bill in its present form in that he did not believe that they would be able to get any convictions with such high penalties.

Senator Close suggested that they amend the bill to 2-15 years for the commission of a crime without the use of a weapon and to 1-15, with no probation for use of a weapon.

SB 44 Senator Dodge moved to amend and do pass.
Seconded by Senator Ashworth.
Motion carried unanimously.

SB 263 Revises procedures relating to recovery of costs and attorney's fees in civil actions.

For further discussion of this measure, see minutes of meetings for March 15 and March 23, 1977.

Senator Close expressed concern over the unlimited use of depositions.
Senator Bryan suggested that they could limit the recovery of cost for depositions to those used at the trial or for a motion.

Senator Close suggested that they delete lines 1-4 on page 2, which modifies the fee schedule, but retain the procedure as to how fees are to be determined.

Senator Sheerin stated that he was opposed to the attorney's lien on lines 7-30, page 3.
Senator Ashworth concurred and moved to delete those lines.
Seconded by Senator Sheerin.
Motion did not carry. The vote was as follows:

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

ABSENT FROM THE VOTE: Senator Dodge

Senator Bryan stated that he felt this was a necessary procedure for the protection of the client. At the present time, if a client discharges his attorney and that attorney does not release his files to the client, it could delay the trial and trial dates are difficult enough to get.

Senator Gojack moved to retain lines 7-30, page 3.
Seconded by Senator Foote.
Motion carried. The vote was as follows:

VOTING AYE:	Senator Close	VOTING NAY:	Senator Sheerin
	Senator Bryan		Senator Ashworth
	Senator Foote	ABSENT FROM	
	Senator Gojack	THE VOTE:	Senator Dodge


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SB 263 In further discussion, it was the decision of the Committee to delete subsection 7 of section 5 in that this is already covered by Chapter 125 of the NRS.

No action was taken at this time.

There being no further business, the meeting was adjourned.

Respectfully submitted,


Cheri Kinsley, Secretary

APPROVED:

SENATOR MELVIN D. CLOSE, JR., CHAIRMAN




STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710

MIKE O'CALLAGHAN
Governor
HOWARD E. BARRETT
Director

March 22, 1977

MEMORANDUM

TO: Senator Mary Gojack

FROM: Howard E. Barrett 

SUBJECT: Victims of Crimes - Reduction of Proposed Maximum Benefits

Attached is a fiscal note showing our estimate of the cost of a victims program with maximum benefits of \$5,000 medical, \$5,000 loss of earnings, and \$3,000 training and rehabilitation. Please note that the projected costs are only slightly less than for a program with maximums of \$10,000-\$10,000-\$3,000. This is the case because, according to experience in California, only about 6% of all awards are made for amounts between \$5,000 and \$10,000, and only about 1% of all awards exceed \$10,000. Those who would receive a total award over \$10,000 under a \$10,000-\$10,000-\$3,000 program would certainly be affected by reduced maximums, but only some of those who would receive between \$5,000 and \$10,000 would be affected. The number of claims and awards would remain the same, and the expenditures for only a few isolated cases would be less. When these cost reductions are spread over the projected number of awards, the average award only goes down about \$130.

HEB:MA/rs

Enclosure

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STATE OF NEVADA
 CAPITOL COMPLEX
 DEPARTMENT OF COMMERCE
REAL ESTATE DIVISION

MIKE O'CALLAGHAN
 GOVERNOR
 MICHAEL L. MELNER
 DIRECTOR
 DEPARTMENT OF COMMERCE

ADMINISTRATIVE OFFICE
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ANGUS W. MCLEOD
 ADMINISTRATOR
 REAL ESTATE DIVISION

February 3, 1977

Senator Melvin D. Close, Jr.
 Legislative Building
 401 S. Carson Street
 Carson City, Nevada 89710

RE: Senate Bill 152

Dear Senator Close:

Senate Bill 152 appears to limit the subpoena power of the Administrator of the Real Estate Division under NRS Chapter 119 and the subpoena power of the Real Estate Advisory Commission or the Administrator under NRS Chapter 645 to use only in a contested case.

The Real Estate Division has used its subpoena authority to produce records and documents during investigations of land sale companies, real estate licensees, and unlicensed persons when allegations or complaints have warranted its use.

NRS 645.720 gives the power to the District Court to compel attendance of witnesses and production of books and papers. This, in effect, provides that the court must ultimately enforce all subpoenas issued by the Commission. NRS 119.300 contains the same provisions for the Land Sale Act.

SB 152 on page 24, lines 11 and 12, also deletes the provision in NRS 645.710 which states that witness fees and mileage expenses shall be paid by the party at whose request the witness is subpoenaed. It appears that under the proposed amendment the State would bear the cost of all witnesses. This has the potential of creating an enormous financial hardship on the agency, as there is no limit to the number of witnesses a respondent might request.

The Division has proposed changes to NRS 645 to delete "funds of the Commission" and replace with "funds of the Division". In reality, the Commission has no funds. SB 152 should perhaps conform with this.

I very much appreciated the opportunity to address the Committee on February 3, 1977.

Sincerely,

Jeanne Hannafin
 Deputy Administrator

JH:sh

cc: Senator Richard H. Bryan Senator Mary L. Gojack
 Senator Keith Ashworth Senator Gary A. Sheerin
 Senator Margie Foote Senator Carl F. Dodge