

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING

MARCH 30, 1977

The meeting was called to order at 8:10 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

AJR 2 Proposes to amend Nevada Constitution to create intermediate appellate court.

Judge E.M. Gunderson, Supreme Court stated this is a proposal of one of the interim study committees. I feel that the committees recommendation is sound and I endorse this proposal. It is consistent with the recommendations of the American Bar Association in its standards and it is the appropriate approach to the problem. This is flexible whereas the bill of Judge Torvinen was a very rigid proposal. That was limited to a court of criminal appeals of three members only, they did not provide for legislative analysis of the question of jurisdiction as the need for relief in the Supreme Court continued to grow. It did not provide for expansion of the jurisdiction of the court of appeals to allow for that relief. This amendment is far better. This bill is also consistent with the needs of Nevada to allow a court of appeals to be established on a limited basis to relieve the Supreme Court in an area to be specified by the Legislature to allow the expansion of the jurisdiction of the Court of Appeals across the board to encompass other areas than that originally designated as the need for relief arises. That is consistent with sound judicial administration, as I believe the testimony established it to be, in the almost two days of testimony taken in the interim.

Senator Sheerin asked if they create the intermediate court are we then going to limit the jurisdiction of the Supreme Court?

Judge Gunderson stated the concept would be as it works in Oregon and certain other states, as to the jurisdiction cut out for the panel for the court of appeals. In Oregon that was initially criminal jurisdiction and has been expanded to include certain other areas of jurisdiction. As to those matters it would be my belief the implementing legislation should initially vest the court of appeals with certain

criminal jurisdiction, post conviction, pre-trial habeas would not be reviewable at all by the Supreme Court from the Court of Appeals. Post conviction probably should not be in the discretion of the legislature, that would be my recommendation and that only should you permit certiorari or a petition of review to the Supreme Court only in the case of appeals. It would be my expectation that as in Oregon the Supreme Court would grant a petition for review only in those cases where it felt to settle a question of law or correct what appeared to be a possibly a grievous error or perhaps in the case of the heaviest felonies. The Supreme Court in the routine cases would not grant a petition for review.

Senator Sheerin asked that in civil cases would you be limited to litigant, limited to a writ of certiorari to go to the Supreme Court?

Judge Gunderson said his recommendation would be in the initial instance the jurisdiction of the Court of Appeals not extend to civil cases. That is the way it was set up in Oregon. Subsequently what occurred was that in certain cases such as industrial compensation cases that are basically a review of the record to see if there is any evidence to support the decision of the tribunal and certain domestic relations cases. Those have been encompassed now within the jurisdiction of the Oregon Court of Appeals. The Supreme Court still has sole and original jurisdiction in most civil matters, because the need for relief in the Supreme Court has not become great enough to require a full court of appeals with sufficient judicial cadre to extend to all levels and in all areas of jurisdiction. So the Legislature felt there is no need to expend that money for an intermediate court extending into those areas. This was implemented originally in Oregon in 1968 when the Supreme Court had about 650 cases and was about 2½ years behind. At that time they had 9 justices on their court. Judge Schwab stated in his testimony that although the case load has grown tremendously but the Court of Appeals has been able to work with great effectiveness and they have no case load problems in their appellate system now. Now we could maintain a Supreme Court of 5 members and have the important areas of civil jurisdiction, for purposes of Supreme Court law making function for a good number of years before we would have to extend the jurisdiction of the Court of Appeals into those areas.

Senator Sheerin asked if we established an intermediate court would we also be able to utilize the panel system at the Supreme Court level in order to carry more cases and last longer.

Judge Gunderson stated it wouldn't be possible to do so consistently with the ABA standards or with the vision of good judicial administration as conceived by almost every appellate judge that I know. The standards take the view that a court of last resort, that is fulfilling a law making function

should not sit in panels because the division of authority, both explicit and implicit, that creeps into the decisions after a while. Particularly with a busy court it confuses lawyers, confuses the judges in the lower courts and in the long run is counter productive and a court of last resort that is busy just doesn't have the time to hold enough en banc hearings to iron out all of those seeming conflicts and contradictions that creep into the decisions of their panels and it has been a horrendous problem in the federal courts of appeals which have in effect become courts of last resorts. That is why they have a proposal pending now before the Judiciary Committees in Congress, to consider a national Court of Appeals to perform a screening function for the United States Supreme Court on petitions of review, to see what might have merit. So the United States Supreme Court would have a chance to concentrate to a larger degree on its law making functions. This bill would mandate a Court of Appeals of three members but it leaves completely flexible and in the hands of the Legislature the question of jurisdiction, salary, what cases should be appealable to the Supreme Court as a matter of right. For example should the capital cases go directly to the Supreme Court as a matter of right as they do in California? These questions are all left to the next session of the Legislature to address it's attention to all of these various subtleties that naturally do and should concern you. Two years ago our case load went up 28%, last year it went up 45% and it is going up again this year. Right now we have a case load that exceeds the per judge case load of the 9th circuit and the 5th circuit courts, which are considered to be among the busiest appellate courts in the country. We can try to hold the line for long enough to have this so that we don't have to have an expansion of the Supreme Court, but we have to have some relieving mechanism.

Senator Dodge stated that he was on the interim committee that heard Judge Schwabs testimony and he was impressed. The Judge stated they were getting along real well. He did point out that under this intermediate appeal court procedure that you could get substantially more mileage out of each additional judge that is appointed on that intermediate court by what is referred to in our bill as a panel of three. You assign three judges to a certain panel to hear certain cases, and you let the other judges be writing some opinions and that is where you catch up on that, you distribute the workload by panels of three.

Judge Gunderson thought it unimportant that they rotate the personnel of the judges on the Court of Appeals because they conceive themselves to be purely a tribunal that reviews decisions for correctness they do not envision themselves as a law making court. So what they are trying to do is simply give a fair and honest review to see if there has been a prejudicial error.

Senator Ashworth asked that if we do establish this intermediate

court then could we reduce the Supreme Court back to three?

Judge Gunderson stated that the Supreme Court, with this court being established at 3, it would be my belief that it would not be possible as a matter of sound judicial administration to reduce the Supreme Court back to 3 and still perform the kind of job I think it should perform on the jurisdiction you would leave to it.

Senator Close stated that where it says "the Legislature may assign a judge of the court to serve as district court judge when needed", it should say "the judges". It appears to be only one of the three and he feels it shouldn't be restricted. The point being that if these guys aren't busy enough to be full time employees of the appellate court then they can be directed to go back and serve on a temporary basis as a District Court Judge.

Senator Bryan felt that they should also build in a mechanism so that they could choose among themselves. With those changes to be made he moved amend and do pass.

Seconded by Senator Sheerin.

Motion carried, the voting was as follows:

AYE: Senator Bryan
Senator Close
Senator Foote
Senator Gojack
Senator Sheerin

NAY: Senator Ashworth

Senator Dodge was absent from the vote.

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

Fran Breen, Nevada Bankers Association stated they had problems with this bill. SB 75, which has already been passed by the Senate, permits one spouse to either sell or encumber the community automobile. SB 80 puts it right back in. Another problem is with defining mobile homes. You can run the whole gammit from little campers to big expensive 5th wheel vehicles and these are the perfect home as they can be set down. So the question arises that when those are financed or when they are sold are they or are they not in this definition? If it is the intent to include all these the language should be changed to make it clearer.

Senator Bryan stated that it is a standard definition of mobile home throughout the statutes. Under 361.561 mobile home means "a vehicular structure built on a chasis, a frame which is designed to be used with or without a permanent foundation and is capable of being drawn by a motor vehicle".

Senator Ashworth stated he thought the point Mr. Breen was trying to get at was the fact that if he took his truck and his 5th wheeler in to sell it or trade it that he could sell his truck, but he would have to have his wife with him to sell

the 5th wheeler.

Senator Close stated that it is still considered a mobile home and feels the definition is clear.

Senator Ashworth moved to indefinitely postpone.
Seconded by Senator Dodge.
Motion carried, voting was as follows:

| | | | |
|------|------------------|------|----------------|
| AYE: | Senator Ashworth | NAY: | Senator Gojack |
| | Senator Bryan | | |
| | Senator Close | | |
| | Senator Dodge | | |
| | Senator Foote | | |
| | Senator Sheerin | | |

SB 385 Provides for organization and immunity from liability of commission on judicial discipline.

John De Graff, Judicial Planner and serving temporarily as the Secretary to the Commission on Judicial Discipline and permanently as Secretary to the Commission on Judicial Selection stated that this bill as well as 386 and 387 deal with those commissions and with him was Mr. Dave Frank who worked primarily on these bills so he would like him do the discussion on it this morning.

Mr. Frank stated that he would like to give some background on 385. First the fiscal note on these bills is in their office, the bienium budget and also an interim budget for the remainder of this fiscal year have been submitted to the finance committees. The budget for the remainder of this fiscal year is AB 305 and has passed both houses and signed by the Governor, it includes in it the provision for the \$40 per day compensation and also reimbursement of those necessary expenses incurred by the Commissioners and Commission staff. In the case of the selection commission they have already met, the discipline commission has held one organizational meeting. In approaching the drafting of SB 385 we took into account that under section 21 of article 6, the Supreme Court has rule making authority to prescribe rules for the conduct and investigation of hearings. We reviewed the rules of constitutional and statutory provisions over 40 jurisdictions which have similar commissions. In drawing up a draft for the court, we did feel that there were certain areas in which legislation was either necessary or desirable and SB 385 presents those areas.

Senator Dodge stated he thought they ought to have the authority to employ people in investigations but thought the phrase in line 4 should state "within the limit of available funds". He doesn't think the state should be obligated on behalf of the commission for unpaid bills.

Mr. Frank stated they would have no objection to that at all. As a practical matter the budgeting is rather difficult, you

start from a bare bones proposition and if the commission has no cases or there are no vacancies then at the end of the bienium you have funding left.

Senator Bryan moved amend and do pass and re-refer to Finance. Seconded by Senator Ashworth. Motion carried unanimously, Senator Dodge was absent from the vote.

SB 386 Prohibits judges who are removed from office from exercising judicial duties.

Mr. Dave Frank stated this is merely a housekeeping bill related to the discipline commission. It is generated primarily by the phrase on line 7 which shows the current NRS 3.180 words "from any cause". It may be the Legislatures desire to permit a judge to sign court records for 12 months after leaving office. This provision would declare him judicially dead.

Mr. De Graff stated that removal is such an extreme remedy, that there was probably plenty of problems with the judge before.

Senator Close asked what would you do in the case of a judge that just didn't show up for work, when he did he was competent, but he just wouldn't work.

Mr. Frank stated he felt it was covered by the constitutional provision. It would be a willfull failure to perform duties.

After some discussion by the Committee Senator Ashworth moved a do pass.

Senator Sheerin seconded the motion.

Motion carried unanimously, Senator Dodge was absent from the vote.

SB 387 Provides for organization of commission on judicial selection.

Mr. Dave Frank stated that this was an attempt to implement the commission on judicial selection. There is no provision in section 20 article 6, which establishes that commission, for any rule making authority at the court. The Commissioners were appointed and sworn in and they have taken it upon themselves to exercise the duties that the constitution puts upon them as commissioners. However, I believe there are certain implementing legislation necessary. He has submitted a copy of the rules of procedure adopted by the commission and a copy of the presonal data questionnaire (see exhibit A) for further Committee study.

Senator Sheerin asked if the budget we talked about before, does that provide for paying \$40 a day retro-actively so that they get all of their pay for the meetings in the past.

Mr. De Graff stated he didn't know if the budget specifically

addresses that. There is certainly sufficient funding in the stipend amount to cover it because this commission as with the discipline commission, it is purely speculative.

After some discussion by the Committee they felt that the per diem should be retro-active to cover the meetings already held and also have the language made clearer as to the fact that the judges shouldn't be included.

Senator Sheerin moved amend and do pass and re-refer to Finance. Seconded by Senator Bryan. Motion carried unanimously, Senator Dodge was absent from the vote.

AB 219 Increases filing fees under Uniform Commerical Code and clarifies law regulating fees chargeable by county recorders.

Mrs. Patti Iseman from the Secretary of States office stated that she had the bill and had underlined the parts that they were concerned with (see exhibit B). Basically they want the filing fees changed so that they would be uniform in the county recorders office as well as in the Secretary of States office.

Dave Howard, Chief Deputy stated that he knows nothing about uniform codes but the purpose of this bill is not between the counties and the Secretary of States office. The purpose was to get rid of the \$3 for this and the \$2 for this and the \$1 for this, and make it a flat fee of \$5 for our office. The problem in the office on referrals from the county is they are getting their fee schedule for recording confused with our fee schedule for the commerical code. Somehow when the bill went back to the bill drafter the original language inadvertently got back into the bill.

Mrs. Iseman stated that these extra fees were added in 1973 and went into effect in 1975, and it was too late for them to do anything about it. All they want is for this to be taken out so it leaves a flat fee.

After some discussion by the Committee they would amend it taking out all the extra fees and option and make it a flat \$4 or \$5.

Senator Bruan moved amend and do pass. Seconded by Senator Ashworth. Motion carried unanimously, Senator Dodge was absent from the vote.

AB 320 Deletes requirement that certain corporations be notified of right to reinstate charters and requires certain stock disclosures by foreign corporations.

Becky Cowperthwaite stated in referring to notification of permanently revoked chartes, it was removed by the Assembly

and we will still be required to notify all those 10 year old corporations that they are being revoked. What we would like is that AB 217, which is presently in Senate Judiciary, amendments are being drafted to change the fee schedule, so AB 320 will not be necessary if we can have on page 2 line 35 thru 39 added to AB 217 right after line 27. California has a new law that corporations do not have to set forth the par value of shares or state whether they are to have no par value. So to protect ourselves lines 35 thru 39 state that we can compute it as no par stock, this pertains only to foreign corporations. So what we want is to be able to charge the \$10 where there is no par value.

Senator Bryan moved they kill this bill and have the language they want added to AB 217, so he moved that we indefinitely postpone.

The motion was seconded and carried unanimously.

AB 199 Changes terminology for restoration of rights of pardoned or paroled prisoners.

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

AB 236 Corrects erroneous reference concerning judicial proceedings.

Assemblyman Bob Barengo stated that the amendment is on line 21 and 22. Although it is redundant language with the United States Constitution, the AG asked that it be included because they felt that this may be a way to argue that we cannot be sued in other states. The AG had told him that other states had that particular language and they had been successful in voicing that argument, we had lost an argument because we didn't have it in our laws.

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

SB 184 Increases penalties and broadens reporting requirements for child abuse.

Senator Foote stated that in her meeting with the Governor it was felt that it would be much better to have someone in the registry that was knowledgeable in the field of medicine. She brought up the subject again of the people in counseling being eliminated from this bill and the Governor feels that there have really been times when that has been used as a cop-out, from his experience as a probation officer.

Senator Dodge stated he had talked to a welfare officer and he had no objection to Washoe Med. doing the inquiries. There really weren't that many inquiries during the night

and on week-ends. The hospital is staffed and they have the people there and he feels that is why it should be placed in the hospital. The way to take care of Southern Nevada is to provide that the Welfare Department may authorize a hospital in Clark County to have a central registry there.

Senator Close stated the first change then would be on page 2. We should delete lines 3 thru 6. Then on page 3 line 2 we can strike "having the care, custody or control" of a minor child". Right now if the mother abuses the child she is responsible, but if the man say she is living with abuses the child he is not responsible. Then say "any adult person willfully causes or permits the child to suffer unjustifiable physical pain or mental suffering as the result of abuse or neglect, or willfully causes or permits the child to be placed in such a situation that the child may suffer physical pain or mental suffering as result of abuse or neglect is guilty of a gross misdemeanor".

After some discussion by the Committee on what to do with the age it was decided to leave it at 18 years as far as the definition of child. They also decided that they should leave it to the Welfare Department to designate where the central registry is to be and have the authority to designate one hospital in each of the regions. On the time that it should be reported they will change the "promptly" to "within 5 working days". Also, make the battery section a felony.

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

As the Committee had to be downstairs this meeting will continue after the session adjournes. Meeting adjourned at 11:02 a.m.

Respectfully submitted,

APPROVED:


Virginia C. Letts, Secretary

SENATOR MELVIN D. CLOSE, JR., CHAIRMAN

SUPREME COURT OF NEVADA

JUDICIAL PLANNING UNIT

CAPITOL COMPLEX

CARSON CITY, NEVADA 89710



TELEPHONE (702) 885-5076
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March 29, 1977

The Honorable Melvin D. Close, Jr.
Nevada State Senate
Legislative Building
Capitol Complex
Carson City, Nevada 89710

Dear Senator Close:

Re: SB 387

SB 387 implements the commission on judicial selection and is scheduled for hearing on March 30. Attached for your information are a copy of the rules of procedure adopted by the commission and a copy of the personal data questionnaire used by the commission for evaluating applicants for judicial vacancies. We hope these furnish useful background information for considering SB 387.

Sincerely,

Dave Frank

DF:bn

Enclosure

cc: Members of Senate Judiciary Committee

Exhibit ⁶¹⁰ A1

STATE OF NEVADA

COMMISSION ON JUDICIAL SELECTION

RULES

RULE 1: COMMISSION CHAIRPERSON

The commission shall elect, for a term of one year, from among its number a chairperson and a vice-chairperson.

RULE 2: COMMISSION SECRETARY

The Judicial Planner of the Supreme Court of Nevada shall serve as secretary to the commission until such time as a state court administrator is appointed. Thereafter, the state court administrator shall serve as secretary. It shall be the duty of the secretary to prepare and keep the minutes of all meetings. In the secretary's absence the commission shall choose a member to be the acting secretary. The minutes of all executive sessions shall be kept confidential.

RULE 3: COMMISSION MEMBERS

a. A commissioner shall consider each potential nominee for a judicial office in an impartial, objective manner. A commissioner shall not consider the race, religion, sex or political affiliation of a potential nominee.

b. If a commissioner knows of any personal or business relationship which he/she or another commission member has with a potential nominee and the relationship may influence, or appear to influence, the decision of the commissioner as to this potential nominee, the commissioner shall report this fact to the chairman. Such report shall be included within the minutes or otherwise in writing made a part of the proceedings of the commission. If a majority of the commission determines that such a relationship may unduly influence the commissioner's decision as to this potential nominee, the commissioner shall not vote upon the potential nominee, and this fact shall be noted in the records of the commission relating to the potential nominee.

c. A commissioner shall not attempt to influence the decision of another commissioner by presenting him/her with facts or opinions not relevant to the judicial qualifications of the potential nominee.

d. A commissioner shall not allow any person or organization to influence him/her with facts or opinions other than those which are relevant to the judicial qualifications of the potential nominee, and shall promptly report any such attempt to the chairperson.

RULE 4: CONFIDENTIALITY

All correspondence and communications received concerning any person, and all records and deliberations of the commission concerning any person, shall be held in complete confidence by the commission except as provided in rule 10.

RULE 5: COMMISSION MEETINGS

a. Meetings of the commission may be called by the chairperson or a majority of the members by written notice and personal telephone call to the other members specifying the time and place of meeting. Such notice shall be made at least seven days before the time specified, except that a meeting may be held on shorter notice if the notice specifies that the meeting will be an emergency meeting. Notice of meeting may be waived by any commissioner either before or after the meeting takes place; and attendance at a meeting by any member shall constitute a waiver of notice by such member unless he or she shall, at or promptly after the beginning of such meeting, object to the holding of the meeting on the ground of lack of, or insufficiency of, notice.

b. Meetings of the commission may be held without notice at any time or place whenever

(1) the meeting is one as to which notice is waived by all members; or

(2) the commission, at a meeting, designates the time and place for a subsequent meeting and the secretary so informs any absent member.

c. Within five business days from the date upon which the existence or anticipated existence of a vacancy in judicial office within the purview of the commission's competence is communicated to the chairperson, the chairperson shall notify the members of the commission.

d. A quorum for the permanent commission shall be five commissioners. A quorum for the temporary commission shall be seven commissioners. The commission may act on any matter by majority vote of the commissioners present and voting on the matter except as provided in rule 7.

e. The chairperson shall call at least one public meeting each year for the principal purpose of reviewing commission operating procedure and briefing new commissioners on the rules of procedure of the commission. The purpose of the public meeting is also to consider what particular qualifications, if any, may be needed for the various judicial offices in the state. Comments relative to the qualifications of any specific person may be submitted to the commission at the public meeting, but shall be submitted only in writing.

RULE 6: RECRUITMENT OF POTENTIAL NOMINEES

a. Commissioners should always keep in mind that often the persons with the highest qualifications will not actively seek judicial appointment. Commissioners may actively seek out and encourage qualified individuals to apply for judicial office. It is incumbent upon the commissioners to encourage well qualified persons to agree to accept nomination even if a commissioner is so intimately acquainted with such a person that the commissioner may ultimately be unable to vote (pursuant to rule 3b) for this person's nomination. The person shall seek the submittal of such names from the broadest possible sources by the use of all available media and otherwise, and shall treat alike all names received from all sources.

b. Each potential nominee shall receive a personal data questionnaire, and any other material as the commission may from time to time determine, provided only that each potential nominee for any particular position shall receive the same material.

RULE 7: PRELIMINARY SCREENING OF POTENTIAL NOMINEES

As soon as the preliminary background information on each potential nominee has been compiled and the information forwarded to each commissioner, the commission may meet to eliminate from further consideration those persons, if any, whom at least five permanent commission members considering a potential nominee for the supreme court, or at least seven temporary commission members considering a potential nominee for a district court, determine to be unqualified for the office under consideration, to plan for the screening of the remaining potential nominees, and to receive such further information regarding any person as it shall consider appropriate. Depending upon the number of persons remaining for further consideration, the commission may form subcommittees composed of both lay and lawyer members and compile further background information on each potential nominee. Potential nominees may be interviewed by the commission as a whole or by a subcommittee thereof.

RULE 8: INVESTIGATION OF POTENTIAL NOMINEES

Commissioners shall conduct investigations into the background and qualifications of potential nominees. Subcommittees composed of both lay and lawyer members may be designated for this purpose by the chairperson. Using a personal data questionnaire as a starting point, the subcommittee may contact as many of the individuals and institutions mentioned in the potential nominee's questionnaire as it deems beneficial. However, the commission or any subcommittee need not limit itself to the questionnaire; it may contact as many individuals and groups from the potential nominee's community or elsewhere as is practicable in an effort to obtain as much background information on the potential nominee as possible. It is the intention of this rule that the broadest possible evaluation of each potential nominee's qualifications be made.

RULE 9: SELECTION OF NOMINEES

a. When all relevant background information on each potential nominee has been compiled and all interviews have been completed by the commission or a subcommittee or subcommittees of the commission, the commission shall meet for the purpose of selecting nominees to be sent to the Governor for a particular office. No persons other than the commission member and its secretary may attend such meetings.

b. Before proceeding to a vote on the potential nominees, the chairperson shall read the names of the potential nominees in alphabetical order and if a member of the subcommittee has been charged with inquiring into a particular potential nominee's background he or she shall report on the results of the subcommittee's investigation of that potential nominee as the potential nominee's name is announced by the chairperson. Thereafter, the chairperson shall open the meeting to a discussion of that particular potential nominee's qualifications for judicial office. After this procedure has been followed for each potential nominee, the chairperson shall open the meeting to a general discussion of the relative qualifications of all the potential nominees.

c. Upon completion of the discussion of the potential nominees' qualifications, the commission shall vote. Voting shall be conducted by secret ballot.

RULE 10: TRANSMITTAL TO THE GOVERNOR

a. The names of the nominees, listed in alphabetical order, shall be hand delivered to the Governor.

b. At the discretion of the commission, other information may be furnished to the Governor at his request.

c. Except as provided in sections a and b above, the names of the nominees shall remain confidential.

RULE 11: PUBLIC COMMUNICATIONS

a. The commission will encourage communications between itself and groups and individuals concerned with the administration of justice. The commission will welcome and encourage transmittal of views relative to the needs of the courts and identification of potential nominees for judicial office.

b. Official announcements concerning the work of the commission shall customarily be made by the chairperson. All commission members, however, are permitted and encouraged to communicate with the public generally regarding the commission, agreeably to these rules.

RULE 12: AMENDMENT

Any provision of these rules of procedure may be amended by the commission from time to time, provided only that no amendment shall take effect except upon the affirmative vote of at least five permanent commission members.

STATE OF NEVADA
COMMISSION ON JUDICIAL SELECTION
PERSONAL DATA QUESTIONNAIRE

In answering these questions, please use letter size paper. Repeat each question and place your answer immediately beneath it. Please mail promptly the original and seven (7) copies to CHAIRMAN, COMMISSION ON JUDICIAL SELECTION, SUPREME COURT BUILDING, CAPITOL COMPLEX, CARSON CITY, NEVADA 89710. Please mark the envelope "Personal and confidential." Questionnaires will be held confidential and will be retained for two years from date of receipt. If you wish to be considered for a future vacancy, please send a letter of interest at that time.

GENERAL

1. Full name; office and home addresses; date and place of birth.
2. Please state your citizenship.
3. Marital status; spouse's name and occupation; list any prior marriages, including names and occupations of spouses.
4. Names of your children, their ages, addresses and present occupations.
5. List all places of residence, and inclusive dates thereof, since admission to the Nevada Bar.
6. Periods of military service, dates, branch in which you served, your rank or rate.
7. Please list any avocational interests and hobbies.

EDUCATION

8. Name and address of each college, graduate school and law school you attended, dates of attendance, the degree awarded, reason for leaving each school if no degree was awarded from that institution.

9. State the significant activities in which you took part during the period of your attendance at college, graduate school and law school, giving dates and offices or leadership positions, if any, which you held.
10. List the books, articles, speeches and important public statements you have published, or examples of opinions you have rendered, giving the citations and dates.
11. Over the past five years have you taught any courses on law or lectured at bar association conferences, law school forums, or continuing legal education programs? Please describe.

LAW PRACTICE

12. Year you were admitted to the Nevada Bar.
13. Courts (other than Nevada State Courts) and year of admission in which you are presently admitted to practice (include inactive memberships).
14. Nature of your law practice after your graduation from law school; dates, names and address of all law offices, companies or governmental agencies with which you are or have been connected, the nature of your connection with each, whether you practice alone, and any other relevant particulars such as clerkships to judges.
15. Are you actively engaged in the practice of law at the present time? If you are connected with a firm, please state its name, address, telephone number and indicate the nature and duration of your relationship.

(If you are presently on the bench, please answer questions 16, 17, 18, and 21 for your practice prior to becoming a judge.)
16. What is the general character of your practice? Do you possess any legal specialities? If the nature of your practice has been substantially different at any time in the past, give the details, including the character of such and the period involved.
17. (a) Estimate what percentage of your work over the past 5 years has involved appearance in court, distinguishing between trial courts and appellate courts.

(b) Approximately what percentage of your litigation in the past 5 years was:
 - (1) Civil
 - (2) Criminal
 - (3) Administrative

- (c) Approximately what percentage of your trials in the last 5 years was:
- (1) Jury
 - (2) Non-jury
- (d) State the approximate number of cases you have tried during the past 5 years.
- (e) Please list courts and counties in any state where you have practiced during the past 5 years.
18. If you have been a member of any bar for over five years, please summarize your experience in court prior to the last 5 years. If during any prior period you appeared in court with greater frequency than during the last 5 years, indicate the periods during which this was so and give for such prior periods a succinct statement of the part you played in the litigation and whether jury or non-jury.
19. To the best of your recollection, list by case name, court, presiding Judge and all counsel appearing therein the five (5) most significant cases in which you have been involved during your legal career, including a brief explanation of the importance of each case and a brief description of your participation in each case.
20. List all bar associations and professional societies of which you are or have been a member and give the titles and the dates of any offices which you have held in such groups. List also chairmanships or any committees in bar associations and professional societies, and memberships of any committees which you believe to be of particular significance. Exclude information regarding political affiliation.
21. During the past five years have you done any pro bono or public interest work as a lawyer? If so, please describe.
22. Please list every course, seminar, or institute relating to continuing legal education which you have attended in the past ten (10) years.

BUSINESS INVOLVEMENT

23. Have you ever been engaged in any occupation, business, or profession other than judicial office or the practice of law? If so, please give the details, including dates and percentages of time spent in such occupation during the last five years. If you are presently on the bench, please give the details requested above for the total time you have been on the bench and the five years immediately prior to going on the bench.

24. Do you serve as an administrator, executor, trustee, or in any other fiduciary capacity? If so, please give details. If you are now an officer or director of any business organization or otherwise engaged in any business enterprise, please give the name and address of the enterprise, the nature of the business, the title of your position, the nature of your duties, the term of your service, and the percentage of your ownership.

CIVIC AND COMMUNITY INVOLVEMENT

25. Have you ever held judicial office? If so, give details, including the courts involved and the periods of service.
26. Have you ever held public office other than a judicial office, or have you ever been a candidate for such an office? If so, give details, including the offices involved, whether elected or appointed, and the length of your service, but excluding information regarding political affiliation.
27. State the significant civic activities in which you have taken part, giving dates and offices or leadership positions, if any, you have held.
28. State the significant educational, charitable, fraternal and church activities in which you have taken part, giving dates and offices or leadership positions, if any you have held.
29. List any honors, prizes, awards, or other forms of recognition which you have received.

CONDUCT

30. Have you ever been arrested, charged or held by federal, state or other law enforcement authorities, including the I.R.S. and S.E.C., or convicted for violation of any federal, state or municipal law, regulation or ordinance? If so, give details. Do not include traffic violations involving fines of less than \$30.00, or juvenile offenses.
31. Have you ever been sued by a client, or former client? If so, please give particulars.
32. Have you ever been a party or otherwise involved in any other legal proceedings? If so, give particulars. Do not list proceedings in which you were merely a guardian ad litem or stockholder. Include all legal proceedings in which you were a party in interest, a material witness, where named as a co-conspirator or a co-respondent, and any grand jury investigation in which you figured as a subject, or in which you appeared as a witness.

33. Have you ever been called to appear before a bar association grievance committee, disciplined, or cited for a breach of ethics or unprofessional conduct by any court or bar association? If so, please give particulars. Are any complaints now pending?
34. Have you filed federal income tax returns for each of the past taxable years? If not, state reasons.

HEALTH

35. What is the present state of your health?
- (a) If you have ever been hospitalized or prevented from working due to injury or mental or physical illness or otherwise incapacitated for a period in excess of two weeks, please give the particulars, including the causes, the dates, places of confinement, and the present status of the conditions which caused the confinement or incapacitation.
- (b) Are you now or have you ever been treated for alcoholism, drug addiction, or mental illness? If so, please set forth the details of such treatment.
- (c) Do you presently suffer from alcoholism, drug addiction or mental illness?
36. Please list by name and address all physicians, hospitals, clinics or others from whom you have received any medical attention during the past five years including in each case the nature of such treatment.
37. Have you ever consulted a psychiatrist, psychologist, or other mental health worker concerning yourself? If so, please state details.

OTHER

38. Please list the names, addresses, and telephone numbers of three or more references who are lawyers or judges, and who are familiar with your professional activities, who would recommend you as qualified to serve on the judiciary.
39. Please list the names, addresses and telephone numbers of three or more persons who are neither lawyers nor judges with whom you have had contact other than professionally, who would recommend you as qualified to serve on the judiciary.

40. Please include any further information relative to your candidacy or qualifications that you wish to transmit to the commission at this time.

41. Please execute the attached waivers. Please add the following statement and sign:

I hereby certify that the answers and information provided herewith are true and correct to the best of my knowledge.

s/ _____

Date _____

STATE OF NEVADA)
)
) ss
)
)
_____)

The undersigned, upon oath, deposes and states as follows: that (he) (she) is the person whose signature appears hereinabove on the instrument entitled "Personal Data Questionnaire;" that (he) (she) has read the same and is aware of the content thereof; that the same is true and correct according to the best knowledge and belief of the undersigned; and that (he) (she) executed the same freely and voluntarily.

s/ _____

Subscribed and sworn to before me this _____ day of _____, 19____.

(Stamp)

Notary Public

Submission of Application; Agreement to Accept Appointment

The undersigned hereby submits his application for nomination and appointment to the office of (Justice of the Supreme Court of Nevada) (District Judge of the _____ District Court of the State of Nevada in and for the County of _____); hereby consents to the inclusion of his name in a list of three nominees to be presented to the Governor, and hereby agrees to serve in said office if appointed by the Governor.

s/ _____

Date _____

STATE OF NEVADA)
)
) ss
)
_____)

The undersigned, upon oath, deposes and states as follows: that (he) (she) is the person whose signature appears hereinabove on the instrument entitled "Submission of Application; Agreement to Accept Appointment;" that (he) (she) has read the same and is aware of the content thereof; that the same is true and correct according to the best knowledge and belief of the undersigned; and that (he) (she) executed the same freely and voluntarily.

s/ _____

Subscribed and sworn to before me this _____ day of _____, 19__.

(Stamp)

Notary Public

Medical Waiver and Consent

The undersigned applicant hereby waives the physician-patient privilege of confidentiality, and does hereby consent that the Nevada Commission on Judicial Selection may examine and copy any and all medical records bearing upon his present state of health in the custody of any physician or health care agency.

s/ _____

Date _____

STATE OF NEVADA)
)
) ss
)
_____)

The undersigned, upon oath, deposes and states as follows: that (he) (she) is the person whose signature appears hereinabove on the instrument entitled "Medical Waiver and Consent;" that (he) (she) has read the same and is aware of the content thereof; that the same is true and correct according to the best knowledge and belief of the undersigned; and that (he) (she) executed the same freely and voluntarily.

s/ _____

Subscribed and sworn to before me this _____ day of _____, 19__.

(Stamp)

Notary Public

Waiver of Confidentiality -- Law Enforcement, Professional

Disciplinary Bodies, Judicial Disciplinary Bodies

The undersigned applicant hereby waives the benefits of any statute, rule or regulation prescribing confidentiality of records of any state or federal law enforcement agency, any administrative or disciplinary committee of the State Bar of Nevada, and the Nevada Commission on Judicial Discipline, and does hereby release and discharge the Nevada Commission on Judicial Selection, its individual members as now or hereafter constituted, any such law enforcement agency or members thereof, any such administrative or disciplinary committee or members thereof, and the Nevada Commission on Judicial Discipline and its members, as now or hereafter constituted, of and from all claims, demands, liability, and damages in any way arising out of the release and use of information concerning applicant on file with any of said bodies, and hereby authorize the Commission on Judicial Selection to obtain from applicant's physician(s) a full report of applicant's present physical condition, and further authorize said physician(s) to prepare and release such report to the Commission.

s/ _____

Date _____

STATE OF NEVADA)
)
) ss
)
)
_____)

The undersigned, upon oath, deposes and states as follows: that (he) (she) is the person whose signature appears hereinabove on the instrument entitled "Waiver of Confidentiality -- Law Enforcement, Professional Disciplinary Bodies, Judicial Disciplinary Bodies;" that (he) (she) has read the same and is aware of the content thereof; that the same is true and correct according to the best knowledge and belief of the undersigned; and that (he) (she) executed the same freely and voluntarily.

s/ _____

Subscribed and sworn to before me this _____ day of _____, 19__.

(Stamp)

Notary Public

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

A. B. 219

ASSEMBLY BILL NO. 219—COMMITTEE ON JUDICIARY

FEBRUARY 1, 1977

Referred to Committee on Judiciary

SUMMARY—Increases filing fees under Uniform Commercial Code and clarifies law regulating fees chargeable by county recorders. (BDR 8-167)

FISCAL NOTE: Local Government Impact: No.
State or Industrial Insurance Impact: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to filing fees; increasing certain filing fees under the Uniform Commercial Code; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. NRS 104.9403 is hereby amended to read as follows:
2 104.9403 1. Presentation for filing of a financing statement and ten-
3 der of the filing fee or acceptance of the statement by the filing officer con-
4 stitutes filing under this article.
5 2. Except as provided in subsection 6 a filed financing statement is
6 effective for a period of 5 years from the date of filing. The effectiveness
7 of a filed financing statement lapses on the expiration of the 5-year period
8 unless a continuation statement is filed prior to the lapse. If a security
9 interest perfected by filing exists at the time insolvency proceedings are
10 commenced by or against the debtor, the security interest remains per-
11 fected until termination of the insolvency proceedings and thereafter for a
12 period of 60 days or until expiration of the 5-year period, whichever
13 occurs later. Upon lapse the security interest becomes unperfected, unless
14 it is perfected without filing. If the security interest becomes unperfected
15 upon lapse, it is deemed to have been unperfected as against a person who
16 became a purchaser or lien creditor before lapse.
17 3. A continuation statement may be filed by the secured party within
18 6 months prior to the expiration of the 5-year period specified in subsec-
19 tion 2. Any such continuation statement must be signed by the secured
20 party, identify the original statement by file number and state that the orig-
21 inal statement is still effective. A continuation statement signed by a per-
22 son other than the secured party of record must be accompanied by a
23 separate written statement of assignment signed by the secured party of
24 record and complying with subsection 2 of NRS 104.9405, including pay-
25 ment of the required fee. Upon timely filing of the continuation statement,

1 the effectiveness of the original statement is continued for 5 years after the
2 last date to which the filing was effective whereupon it lapses in the same
3 manner as provided in subsection 2 unless another continuation statement
4 is filed prior to such lapse. Succeeding continuation statements may be
5 filed in the same manner to continue the effectiveness of the original state-
6 ment. Unless a statute on disposition of public records provides otherwise,
7 the filing officer may remove a lapsed statement from the files and destroy
8 it immediately if he has retained a microfilm or other photographic record,
9 or in other cases after 1 year after the lapse. Where the filing officer main-
10 tains a microfilm system he may, after microfilming the original document,
11 return it to the person who presented it for filing. The filing officer shall so
12 arrange matters by physical annexation of financing statements to contin-
13 uation statements or other related filings, or by other means, that if he phys-
14 ically destroys the financing statements of a period more than 5 years past,
15 those which have been continued by a continuation statement or which are
16 still effective under subsection 6 shall be retained.

17 4. Except as provided in subsection 7 a filing officer shall mark each
18 statement with a file number and with the date and hour of filing and shall
19 hold the statement or a microfilm or other photographic copy thereof for
20 public inspection. In addition the filing officer shall index the statements
21 according to the name of the debtor and the name of the record owner of
22 the real property as given in the financing statement. The filing officer shall
23 also note in the indexes the file number and the address of the debtor given
24 in the statement.

25 5. The uniform fee for filing and indexing and for stamping a copy
26 furnished by the secured party to show the date and place of filing for an
27 original financing statement or for a continuation statement [shall be \$2]
28 is \$4 if the statement is in the standard form prescribed by the secretary of
29 state and otherwise [shall be \$3,] is \$5, plus in each case, if the financing
30 statement is subject to subsection 5 of NRS 104.9402, \$2. The uniform
31 fee for each name more than one required to be indexed [shall be] is \$1.
32 The secured party may at his option show a trade name for any person
33 and an extra uniform indexing fee of \$2 shall be paid with respect thereto.

34 6. If the debtor is a transmitting utility (subsection 5 of NRS 104.-
35 9401) and a filed financing statement so states, it is effective until a ter-
36 mination statement is filed. A real estate mortgage which is effective as a
37 fixture filing under subsection 6 of NRS 104.9402 remains effective as a
38 fixture filing until the mortgage is released or satisfied of record or its
39 effectiveness otherwise terminates as to the real estate.

40 7. When a financing statement covers timber to be cut or covers min-
41 erals or the like (including oil and gas) or accounts subject to subsection 5
42 of NRS 104.9103, or is filed as a fixture filing, it shall be filed for record
43 and the filing officer shall index it under the names of the debtor and any
44 owner of record shown on the financing statement in the same fashion as if
45 they were the mortgagors in a mortgage of the real estate described, and,
46 to the extent that the law of this state provides for indexing of mortgages
47 under the name of the mortgagee, under the name of the secured party as
48 if he were the mortgagee thereunder, or where indexing is by description
49 in the same fashion as if the financing statement were a mortgage of the
50 real estate described.

1 SEC. 2. NRS 104.9404 is hereby amended to read as follows:

2 104.9404 1. If a financing statement covering consumer goods is filed
3 on or after July 1, 1975, then within 1 month or within 10 days following
4 written demand by the debtor after there is no outstanding secured obliga-
5 tion and no commitment to make advances, incur obligations or otherwise
6 give value, the secured party must file with each filing officer with whom
7 the financing statement was filed, a termination statement to the effect that
8 he no longer claims a security interest under the financing statement,
9 which shall be identified by file number. In other cases whenever there is
10 no outstanding secured obligation and no commitment to make advances,
11 incur obligations or otherwise give value, the secured party must on writ-
12 ten demand by the debtor send the debtor, for each filing officer with
13 whom the financing statement was filed, a termination statement to the
14 effect that he no longer claims a security interest under the financing state-
15 ment, which shall be identified by file number. A termination statement
16 signed by a person other than the secured party of record must be accom-
17 panied by a separate written statement of assignment signed by the
18 secured party of record complying with subsection 2 of NRS 104.9405,
19 including payment of the required fee. If the affected secured party fails
20 to file such a termination statement as required by this subsection, or to
21 send such a termination statement within 10 days after proper demand
22 therefor he ~~shall be~~ is liable to the debtor for \$100, and in addition for
23 any loss caused to the debtor by such failure.

24 2. On presentation to the filing officer of such a termination state-
25 ment he ~~must~~ shall note it in the index. If he has received the termina-
26 tion statement in duplicate, he shall return one copy of the termination
27 statement to the secured party stamped to show the time of receipt
28 thereof. If the filing officer has a microfilm or other photographic record
29 of the financing statement and of any related continuation statement,
30 statement of assignment and statement of release, he may remove the orig-
31 inals from the files at any time after receipt of the termination statement,
32 or if he has no such record, he may remove them from the files at any
33 time after 1 year after receipt of the termination statement.

34 3. If the termination statement is in the standard form required by
35 the secretary of state, the uniform fee for filing and indexing the termina-
36 tion statement ~~shall be \$2,~~ is \$4, and otherwise ~~shall be \$3,~~ is \$5,
37 plus in each case an additional fee of \$1 for each name more than one
38 against which the termination statement is required to be indexed.

39 4. If the filing officer has microfilmed the original documents, he shall
40 make copies of the microfilmed documents, mark the copies "terminated"
41 and send or deliver to the secured parties and to the debtor the copies
42 marked "terminated."

43 SEC. 3. NRS 104.9405 is hereby amended to read as follows:

44 104.9405 1. A financing statement may disclose an assignment of a
45 security interest in the collateral described in the financing statement by
46 indication in the financing statement of the name and address of the
47 assignee or by an assignment itself or a copy thereof on the face or back
48 of the statement. On presentation to the filing officer of such a financing
49 statement the filing officer shall mark the same as provided in subsection
50 4 of NRS 104.9403. The uniform fee for filing, indexing and furnishing

1 filing data for a financing statement so indicating an assignment [shall
2 be \$2] *is \$4* if the statement is in the standard form prescribed by the
3 secretary of state and otherwise [shall be \$3.] *is \$5, plus in each case an*
4 additional fee of \$1 for each name more than one against which the financ-
5 ing statement is required to be indexed.

6 2. A secured party may assign of record all or a part of his rights
7 under a financing statement by the filing in the place where the original
8 financing statement was filed of a separate written statement of assignment
9 signed by the secured party of record and setting forth the name of the
10 secured party of record and the debtor, the file number and the date of
11 filing of the financing statement and the name and address of the assignee
12 and containing a description of the collateral assigned. A copy of the
13 assignment is sufficient as a separate statement if it complies with the pre-
14 ceding sentence. On presentation to the filing officer of such a separate
15 statement, the filing officer shall mark such separate statement with the
16 date and hour of the filing. He shall note the assignment on the index of
17 the financing statement, or in the case of a fixture filing, or a filing cover-
18 ing timber to be cut, or covering minerals or the like (including oil and
19 gas) or accounts subject to subsection 5 of NRS 104.9103, he shall index
20 the assignment under the name of the assignor as grantor and, to the
21 extent that the law of this state provides for indexing the assignment of a
22 mortgage under the name of the assignee, he shall index the assignment of
23 the financing statement under the name of the assignee. The uniform fee
24 for filing, indexing and furnishing filing data about such a separate state-
25 ment of assignment [shall be \$2] *is \$4* if the statement is in the standard
26 form prescribed by the secretary of state and otherwise [shall be \$3.] *is*
27 \$5, plus in each case an additional fee of \$1 for each name more than one
28 against which the statement of assignment is required to be indexed. Not-
29 withstanding the provisions of this subsection, an assignment of record of
30 a security interest in a fixture contained in a mortgage effective as a fixture
31 filing (subsection 6 of NRS 104.9402) may be made only by an assign-
32 ment of the mortgage in the manner provided by the law of this state other
33 than this chapter.

34 3. After the disclosure or filing of an assignment under this section,
35 the assignee is the secured party of record.

36 4. Where the filing officer maintains a microfilm system he may, after
37 microfilming the original document and making the appropriate notations,
38 return it to the person who presented it for filing.

39 SEC. 4. NRS 104.9406 is hereby amended to read as follows:

40 104.9406 A secured party of record may by his signed statement
41 release all or a part of any collateral described in a filed financing state-
42 ment. The statement of release is sufficient if it contains a description of
43 the collateral being released, the name and address of the debtor, the
44 name and address of the secured party, and the file number of the financ-
45 ing statement. A statement of release signed by a person other than the
46 secured party of record must be accompanied by a separate written state-
47 ment of assignment signed by the secured party of record and complying
48 with subsection 2 of NRS 104.9405, including payment of the required
49 fee. Upon presentation of such a statement of release to the filing officer
50 he shall mark the statement with the hour and date of filing and shall note

1 the same upon the margin of the index of the filing of the financing state-
2 ment. The uniform fee for filing and noting such a statement of release
3 **[shall be \$2]** is \$4 if the statement is in the standard form prescribed by
4 the secretary of state and otherwise **[shall be \$3,]** is \$5, plus in each case
5 an additional fee of \$1 for each name more than one against which the
6 statement of release is required to be indexed.

7 SEC. 5. NRS 247.305 is hereby amended to read as follows:

8 247.305 1. **[Except as otherwise specifically provided by law,]**
9 *Where another statute specifies fees to be charged for services, county*
10 *recorders shall charge and collect only the fees specified. Otherwise*
11 *county recorders shall charge and collect the following fees:*

| | | |
|----|---|--------|
| 12 | For recording any document, for the first page..... | \$3.00 |
| 13 | For each additional page..... | 1.00 |
| 14 | For recording each portion of a document which must be | |
| 15 | separately indexed, after the first indexing..... | 2.00 |
| 16 | For copying any record, for the first page..... | 1.00 |
| 17 | For each additional page..... | .50 |
| 18 | For certifying, including certificate and seal, for the first seal.. | 1.00 |
| 19 | For each additional seal..... | .25 |
| 20 | For recording or copying any document in a foreign lan- 21 guage, double the normal fee. | |

22 2. **[No]** A county recorder shall *not* charge or collect any fees for
23 any of the services **[herein]** specified *in this section when rendered by*
24 *him to the State of Nevada or the county, or any city or town within the*
25 *county, or any officer thereof in his official capacity, except for copying*
26 *of any document, including certificate and seal, for which the statutory fee*
27 *shall be paid.*

28 3. Except as otherwise provided by an ordinance adopted pursuant to
29 the provisions of NRS 244.207, county recorders shall, on or before the
30 5th day of each month, account for and pay to the county treasurer all
31 such fees collected during the preceding month.