

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING

APRIL 20, 1977

The meeting was called to order at 7:36 a.m. Senator Close was in the chair.

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

ABSENT: None

AB 556 Establishes statutory procedure for changing certificates of birth following adoption.

Senator Bryan stated he felt the thrust of the bill addressed the problem where you go to court and get a decree of adoption and this is to be forwarded to the bureau of vital statistics, however there is a procedural gap as to the duty of forwarding this document. The duty is not placed on anyone at this time. Often times the attorney fails to follow up on this and then the child can never get a copy of his birth certificate.

Senator Close stated there was a problem on page 2, where it states that the birth certificate shall be placed in an envelope and the envelope is sealed whether or not a supplemental certificate is requested. So the original certificate is sealed.

Senator Dodge stated he didn't understand why you would seal the original certificate if you are not going to issue a supplemental, because then there is no evidence of birth.

Senator Close stated we should get someone over here from Vital Statistics to testify just exactly what the purpose of this bill is and why the original is sealed.

Michael Dunn, Medical Service Representative for the Division of Vital Statistics stated that in many cases the adoptive parents don't really care whether the initial certificate indicates who the natural parents were. When the paper work comes in from the court the initial certificate, or original, is taken and sealed inside an envelope which is attached to the decree and another certificate is made out. He believes this bill was initiated by the Clerks Office so he is not too well versed on this. It had no financial impact on our Division, we did review it but found nothing in the bill they couldn't live with.

MINUTES OF MEETING

APRIL 20, 1977

PAGE TWO

Senator Close stated that was fine but what happens to the birth certificate if it is sealed and no supplemental is issued?

Mr. Dunn stated he could see the point. But although this is sealed it is attached to the court order of adoption. Eventually that individual comes in and says he wants a copy of his birth certificate and the only way he can get a copy of this is to get a court order to get the original or at that point he can apply for an amended certificate, because all of the information except for who his natural parents were and the facts at the time of his birth are available. He stated the reason that it is sealed is so that we don't have a problem say 20 years from now with the real parents trying to chase down a child that may not know they are adopted in the first place.

Senator Bryan asked why in the bill they ask for a report to be filed as well as the adoption decree?

Mr. Dunn stated he thought the reason for this was because many adoptions go through in this state and the lawyer assumes that clerk of court has initiated the action and sent it to the State and the clerk has assumed that the lawyer has done it. So we have had many people come in for birth certificates and there is no birth certificate or record. So then we have to find out if he was born under another name and that can get involved. But what has happened was the process was initiated but never completed because nothing ever came into the State. He stated that on line 13 where it says, "when amended the original certificate of birth shall be placed in an envelope and sealed". So we would need to add "when amended". As for the two different forms, the court report of adoption is simply an information sheet from which the facts of adoption are taken off of, the authority actually comes from the court order of adoption itself.

Euphia Blinn, Head of Vital Statistics Record Department stated that many of the court orders are little one page things that doesn't even identify the original child that is adopted. It does not contain sufficient information to identify the child nor sufficient information concerning the adoptive parent. On the court report of adoption it identifies the child originally so we can locate the certificate. It gives all the information necessary to prepare a new certificate of birth and that form is sealed with our authority for amending, which is of course a decree of adoption. As I read this bill our office will supply these forms to the various courts that need them and they will then send them back to us.

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

MINUTES OF MEETING
APRIL 20, 1977
PAGE THREE

SB 482 Revises provisions relating to forfeiture of bail upon breach of conditions.

See minutes of 4/15/77 for testimony.

Senator Sheerin moved to indefinitely postpone.
Seconded by Senator Foote.
Motion carried unanimously.

AB 341 Restricts role of commissioner of civil marriages.

See minutes of 4/19/77 for testimony.

Senator Ashworth moved amend and do pass, taking out lines 10, 11 and 12.
Seconded by Senator Gojack.
Motion carried, vote was as follows:

AYE:	Senator Ashworth	NAY:	Senator Dodge
	Senator Bryan		
	Senator Gojack		
	Senator Foote		

Senator Close abstained and Senator Sheerin was absent for the vote.

AB 539 Authorizes district court to transfer trust supervision to out-of-state court under certain circumstances.

See minutes of 4/19/77 for testimony.

Senator Dodge moved do pass.
Seconded by Senator Gojack.
Motion carried unanimously.

AB 365 Provides lien for supplier of electric power if its power is utilized to irrigate land.

See minutes of 4/19/77 for testimony.

Senator Bryan moved to indefinitely postpone.
Senator Dodge seconded the motion.
Motion carried, vote was as follows:

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

AB 201 Regulates landlord and tenant relationship in mobile home parks.

Darrell Dreyer, Assemblyman District 14 stated that this bill puts a little more teeth into the law that we presently have

on the books. This bill provides that an agreement previously made is void unless signed by the landlord and tenant. It provides the things that will and will not be contained in the agreement. It also provides that the landlord shall provide in writing to each tenant, the corporate or principal owner of the park. The reason for this is that so many of the parks are owned by absentee owners and the tenants can get no satisfaction out of the manager and has no recourse.

Senator Bryan thought there was a problem here that if the agreement was not in writing it was void. What protection is there if there is an oral agreement?

Shelley Lavine, Chief Assistant to the Director of the Department of Commerce stated that they had caught that this morning and that was not their intent.

Senator Sheerin stated that about 25% of our people in Carson City live in mobile home parks, and one problem is that in regular law, or real property law, you don't need a writing unless it is a year or more, so why in mobile homes do you want to require a writing in a month or more?

Mr. Dreyer stated that the problem is that management can throw these people out at will. One example was where a mobile park owner came in and said you are going to buy these spaces, they are no longer for rent. You just don't pick up and move these big coaches their are large expenses involved.

Senator Dodge asked what about the provision where it agrees to indemnify the landlord against liability, which arises exclusively out of this act, but you can get into an area where a tenant is jointly responsible. Are you saying that this in any way would offer a shield to the tenant to void an understanding that it was a fault of his?

Mr. Martin Weiner, Attorney for Consumer Affairs stated he would like to answer that question with a no. Indemnification would mean the tenant would be responsible even if he wasn't at fault, but to forbid its provisions would still mean that the tenant is liable if he is negligent.

Senator Close stated that even in commerical leases it indemnifys the landlord.

Senator Bryan stated that this is a policy question. If the tenant is at fault and the landlord is held responsible for that, for some reason is it unreasonable to expect the tenant to indemnify the landlord for an act or omission or neglect for the action that the tenant did?

Mr. Weiner stated that then perhaps this should be rewritten to permit indemnification in case of the tenant negligence.

Mr. Dryer stated that section 5 was to cover deposits that could rightfully be held by the landlord for any negligence or damage to the property brought about by the tenant. This would also require the landlord to keep a separate record of this so there could be no overcharging. Section 6 goes to the fact that the landlord will keep the park in a very clean and safe condition.

Miss. Lavine stated that the problem she has had with one mobile park was that there was no enforcement of regulations. The fences were down and no skirting on most of the home which is required. Dogs run loose, there is no security. This is not an isolated case it runs throughout the parks. When she tried to talk to the managers, they do nothing about these things and she cannot locate the owner because they are out of state. There are county ordinances but the county is too busy to enforce these.

Senator Bryan felt that maybe there should be some kind of thing in the law to cover the responsibility of the landlords, as he can see where you cannot have the tenant responsible for any vacant areas in the parks.

Senator Sheerin stated he felt it should be a two way street then. If the landlord is going to have all these duties of keeping things clean then the tenant should have equal responsibility to keep his area clean.

Senator Dodge felt this should be a contractual thing, he doesn't see how you can mandate these sorts of things.

Mr. Weiner stated that Section 14 is amending the current law NRS 118.240 which covers the grounds of terminating the rental agreement. Among which on page 5 lines 6, 7 and 8 covers failure of the tenant to correct any non-compliance with a valid rule or regulation within a reasonable time of notification. Lines 11 thru 15 covers repeated or continued violations, of valid rules of conduct, etc.

Glen Kierstead, Southern Nevada Mobile Home Parks Association stated that in many of the parks there are tenants that have been there for years and what happens if they refuse to sign the agreement. They recognize that there are some poor conditions in some of the parks, but they feel this is a matter for Health, Fire, and Safety in the Counties to enforce. The controls are already set up but are not being exercised. So they are not in favor of this bill. He would also like to raise the question that if a tenant is not keeping his lot in order what rights does the landlord have to go in and clean it up and then back-charge the tenant, there seems to be no provision for that. He also has a problem with the supply of water, power, gas, etc. If the utility company for some reason cannot furnish it then he doesn't feel that the landlord should be liable for that, because you are getting into a third person.

Mr. Dryer stated that the bill only addresses those things that the landlord is responsible for, if it is coming in from an outside source then he would not be held responsible.

Senator Gojack felt that the language should be made clearer in this area, that perhaps Sierra Pacific Power or whomever, could be specified.

Senator Dodge had a problem with the 24 hour situation. If the landlord is trying to remedy the situation and has to get parts from somewhere or its a weekend, but he is making every effort, he doesn't feel an absolute liability should be placed on him.

Senator Sheerin stated he had a problem with the language regarding the arbitrator. It states "unless the landlord and tenant agree on another arbitrator", they are stuck with the Consumers Affairs people, and he doesn't feel that the Consumer Affiars people even want to get involved in being an arbitrator, much less how are you even going to get them to agree in the first place.

Senator Dodge stated he felt this bill was removing the right of any selectivity on the side of the landlord.

Mr. Weiner stated that it does say you may not terminate the tenancy in retaliation for the tenant doing certain activities, but there are other good reasons for terminating the tenancy.

Senator Bryan stated he felt there should be some language in here to exclude campgrounds or recreational mobile parks. As it reads you could conclude that perhaps these were meant to be included under the definition of a mobile home. He also felt that under the uniformity of rents there should be some flexibility. Some lots are larger than others and it is not unreasonable to charge different rents for different lot sizes.

Ray Yannayon, President of the Mobile Home Owners League stated he would like to speak to this as there was a situation where one landlord was charging by the size of the mobile home and it changed the whole fee structure, so they would be for the uniformity of the law. The only problem they have with the bill is the language which would limit the selection that the landlord has of the tenant.

SB 151 Changes salary and duties of State Court Administrator.

See minutes of 2/8/77 for testimony.

Senator Close stated that the Assembly has amended this bill on page 2 line 6 by inserting "internal" in front of auditing. The Committee concured unanimously with this amendment.

MINUTES OF MEETING
APRIL 20, 1977
PAGE SEVEN

As there was no further business at this time the meeting was adjourned at 9:58 a.m.

Respectfully submitted,


Virginia C. Letts, Secretary

APPROVED:

SENATOR MELVIN D. CLOSE, JR., CHAIRMAN