

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING

APRIL 21, 1977

The meeting was called to order at 9:50 a.m. Senator Close was in the Chair.

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

ABSENT:            Senator Gojack, Excused

AB 519            Requires disclosure of identity and offense charged against repeated juvenile offenders.

Frank Carmen, Director, Clark County Juvenile Court Services testified in support of this measure. He stated that the only reason for the publication of this information is for the benefit of the community and not as a deterrent to crime. In response to a question from Senator Sheerin as to who is authorized to release the information, he stated that the juvenile division and the district attorney's office both have that ability. He felt this was a broad enough base for them to work with and did not think it was necessary to more specifically delineate that in the statute.

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

AB 680            Authorizes Secretary of State to microfilm certain corporate documents.

Dave Howard, office of the Secretary of State testified in support of this measure. He stated that the reason for the bill was to help alleviate the storage and security problems with original documents. He informed the Committee that the companion bill to this measure which allocated the funds necessary to do this, had already been signed by the Governor.

Senator Dodge moved a do pass.  
Seconded by Senator Sheerin.  
Motion carried unanimously. Senators Ashworth and Gojack were absent from the vote.

AB 517 Prohibits diversion of irrigation water from rightful user.

Senator Dodge stated that at the present time, the law is silent on this; there is no legal sanction for wrongfully diverting another person's water. He felt that this was a timely measure for those areas where water is scarce.

Senator Close felt that the element of knowledge should be present and that it should also include "or who causes to be diverted" as in the case of a large rancher who directs his employee to divert the water.

Senator Bryan further commented that he thought that in terms of enforcement, it should probably be only a misdemeanor in that a gross misdemeanor would require a preliminary hearing which is very time consuming.

Senator Dodge concurred and stated that he felt this was more an attempt to get the person's attention than anything else.

Senator Dodge moved to amend and do pass.

Seconded by Senator Bryan.

Motion carried unanimously. Senators Ashworth and Gojack were absent from the vote.

SB 514 Provides for compensation of special administrator of estates and their attorneys.

Senator Close stated that at the present time, the executor or administrator is able to obtain their fee before the closing of the estate and there should be no reason why this shouldn't apply to a special administrator.

In response to a question from Senator Dodge as to the circumstances under which a special administrator is appointed, Peter Newman, Nevada Trial Lawyer's Association stated that they are appointed in two instances: to take charge of perishables and in the instance where an estate is being sued and the only asset is an insurance policy.

Senator Ashworth moved a do pass.

Seconded by Senator Dodge.

Motion carried unanimously. Senator Gojack was absent from the vote.

AB 476 Makes changes in Juvenile Court Act and child labor laws.

Frank Carmen, Director, Clark County Juvenile Court Services and Ned Soloman, Clark County Juvenile Court Services, testified in support of this measure.

Mr. Carmen reviewed each section of the bill with the Committee and his comments are as follows:

AB 476 SECTION 1

Deals with the reimbursement to the county, from the parents, for services rendered to the children for such things as medical care, psychological examinations, etc. This would allow them sliding scale fee which would also take into consideration their ability to pay.

Senator Bryan expressed concern over requiring the parents to pay should the child be vindicated of any criminal charge. Mr. Carmen stated that there would not be a great deal of testing done prior to commitment unless the child has demonstrated severe emotional disturbances while in the detention facility.

Senator Dodge suggested that could be taken care of by adding, on line 15, that the court could determine the propriety of the amount of the charge.

SECTION 3

This section would provide that in situations involving murder or attempted murder, the jurisdiction would be with the adult district court. They would be able to petition the juvenile court for jurisdiction but the burden would be with the juvenile.

SECTION 5

This again refers to murder to attempted murder cases. This pertains to individuals over 18 and under 21; the gray area in the juvenile statute where there are often times a question of whether or not the juvenile court has jurisdiction. This will place the burden on the adult district court and then only under certain circumstances would those individuals have access to the juvenile court.

SECTION 6

This would provide that once a juvenile had been certified up as an adult, they would remain certified for all subsequent actions unless a showing of exceptional circumstances was made.

SECTION 7

Increases the number of members of the juvenile probation committee from 5 to 7. It also provides that if a member misses 3 consecutive meetings, they will forfeit their position on the board. With only 5 members on the board, it is often times difficult to get a quorum for the monthly meetings.

AB 476 SECTION 8

This would allow the welfare division employees to take children into custody that needed to be placed in shelter care facilities. This came about because there had been cases where the judge had been overturned by attorneys who challenged the right of state welfare to place a child in our facilities. We also felt that in some instances, state welfare could be found to be negligent by letting a child stay in unsuitable conditions.

Subsection 7 pertains to the younger child who is arrested for murder or attempted murder. This would allow them to petition the juvenile court to be housed in the juvenile detention center rather than the county jail.

Mr. Carmen requested that the word "except" on line 46 be deleted as it is counter-productive to what they are seeking to do.

SECTION 9

Under certain circumstances, the court can allow the child to be exempt from school, establish their own residence and to be employed. This pertains strictly to those juveniles that are already wards of the court and who will be under strict supervision.

SECTION 10

This is a house-cleaning section which deals with the sealing of records of juveniles who have never been declared wards of the court; the category of kids who are termed judicial reprimands, diversion, informal probation; they have never been formally placed on probation.

SECTIONS 13 and 14

These refer to the labor law statutes rather than the juvenile statutes. This is to put language in here that is consistent with the other labor laws. The labor laws deal with juveniles 16 years and under with the exception of this specific section which deals with work permits. This would require that a child under 14 would have to come to us to get a work permit. We want to ability to review the hours, working conditions and places of employment that these children are working.

Further testimony on this measure will be taken tomorrow, April 22, 1977 at 9:00 a.m.

No action was taken at this time.

SB 426 Limits civil actions based upon products liability.

For further testimony on this matter see minutes of meetings for April 11 and April 16, 1977.

Senator Close informed the Committee that this measure had been passed out of Committee on April 16 and was presently on the Secretary's Desk but that Mr. Newman had requested an opportunity to address them on this issue.

Peter Newman, Nevada Trial Lawyer's Association, stated that they were opposed to this bill because it would change substantially, the substantive law in this state and in almost every other state in the country, that says that even though a person who is injured by a defective product and has misused, modified or abused the product, that if the misuse or abuse of the product is a foreseeable one, the courts have said that the injured person is still entitled, legally, to recover. This bill would do away with that concept. The Nevada Supreme Court, in a case handed down 3 weeks ago, recognized that the manufacturer, under certain circumstances, has a duty to warn of certain problems with the product. Even if the product is being misused, the manufacturer has to warn, especially if it is a foreseeable misuse. The California Supreme Court has said again and again that a manufacturer is required to foresee some degree of misuse and abuse of his product and to take reasonable precautions to minimize the harm that might result.

Senator Sheerin stated that when he suggested this bill be passed out, he had asked the witness if it was not contrary to common law and he had replied yes. Therefore since the bill had been passed under a misrepresentation he felt the Committee should bring it back for reconsideration.

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