

Members Present:

Chairman Hayes
Vice Chairman Stewart
Mr. Banner
Mr. Brady
Mr. Coulter
Mr. Fielding
Mr. Horn
Mr. Malone
Mr. Polish
Mr. Prengaman
Mr. Sena

Members Absent:

None

Also Present:

Joe Braswell
Virginia Cain

Frank Daykin
Kent Franke
Alan Glover
Susan M. Haase

Gloria Handly
Susan Haveson
Fred Holzhauer
Darrell D. Luce
Lloyd Mann
Michael L. Medema
George Miller
Jim Pollard
Richard Romine
Ned B. Solomon
Robert F. Weber

Inter-Tribal Council of Nevada
National Council of Juvenile and
Family Court Judges
Legislative Counsel Bureau

Assemblyman
National Association for Retarded
Citizens
Nevada State Welfare Division
Washoe Legal Services
Department of Human Resources
Christian Science Church
Assemblyman
Department of Prisons
Welfare Department
Developmental Disabilities Council
Fallon TV Cable
Clark County Juvenile Court
Carson TV Cable

Chairman Hayes called the meeting to order at 8:08 a.m.

SENATE BILL 8

Clarifies statewide applicability of provisions governing certain duties of coroners.

Mr. Daykin said that this bill was a reviser's bill that clarifies the duties of coroners who are empowered to act under a county ordinance. He said that the statutes presently apply to these individuals, but a person reading only NRS 259.150 and 259.180, amended by this bill, might construe the applicability of the statutes only to Justices of the Peace.

Mr. Daykin said that the affected sections deal with the handling of property found on deceased persons. He said that Clark County presently has a coroner whose position was created by ordinance, and possibly Washoe County has a similar position. In the smaller counties, he said that the Justices of the Peace are acting coroners; therefore, these statutes would still apply to them in their capacity as coroner.

ASSEMBLY BILL 119

Revises provisions on termination of parental rights.

Mr. Luce presented a proposed amendment to the bill (Exhibit A) which also included copies of NRS 200.5011 and 432.010 which particularly addressed the fact that a parent would not be considered neglectful because of the fact he or she would be providing nonmedical treatment for a child. He said that to prevent entanglements, Christian Scientists had asked for and received this type of language that would allow their children to be treated in accordance with their beliefs, and he asked the Committee to consider this language in this particular bill.

Mrs. Cain said she was present to speak in favor of the bill because it represents the position of the National Council of Juvenile and Family Court Judges. She distributed to Committee members a copy of the Council's annual report. She said that the Council believes that when parental rights are terminated, it would not mean that the child should be left in institutional care. She said that placement agencies would work to find adoptive parents for children who would be affected by a parental right termination.

Mr. Polish asked about responsibilities that children have to their parents. Mrs. Cain said that a child should be taught love and respect for its parents, but that this love and respect should be mutual. She said that a child was not a possession or chattel of adults.

Mrs. Cain related the problem of costs for caring for children who are taken from their homes is horrendous, and she said that it would be cheaper to have children placed in subsidized adoption. This cannot be done if parental rights are not terminated. She related the costs in several states for placement of children in foster homes.

Mr. Horn asked if a parent could be forced to participate in therapy rather than terminating parental rights if a child was being abused. Mrs. Cain said that a child would not be left in a family situation if he or she was in jeopardy. She said a child is very rarely moved unless he or she is in jeopardy.

Mr. Stewart said it appeared to him that the bill would be to terminate the rights of a parent and place a child for adoption. Mrs. Cain agreed, and she said that termination of parental rights would only occur when there was no hope for the family to be restored.

Chairman Hayes said that her impression was that the bill was not necessary because there are grounds in the law for termination of parental rights at this time. She said this would be giving courts too much power.

Chairman Hayes asked how many states had adopted the "Model Statute for Termination of Parental Rights" which was earlier distributed by Mrs. Cain. Mrs. Cain said she could get the information for the Committee.

Miss Haveson referred to Page 4, Section 12 of the bill, which she said requires a court to focus on foster parents' financial ability to support a child as compared to the ability of the natural parents to support a child. She said that it was not a question if the parent could adequately support the child or not. She said that for a court to be forced to consider financial ability, it would deprive a person of the right to bear and raise children.

Mr. Sena asked Miss Haveson if the bill was needed. Miss Haveson answered that the bill was not needed because there were statutes that covered termination of parental rights.

Mrs. Handly said she would agree that this law was not necessary. She said there is not a fiscal note on the bill, and there would probably be a cost to individual counties for the termination of parental rights. She said there were probably 40 to 50 termination of parental rights cases each year. She said that Section 3, Item 2 would require an annual judicial review once parental rights have been terminated, and Chapter 62 already requires a six-month review of these cases.

Mr. Braswell presented a statement (Exhibit B) to the Committee.

Mr. Miller, State Welfare Director, said that the State of Nevada had been about ten years ahead of the U.S. Department of Health, Education, and Welfare, and he said there were enough laws on the books now to cover termination of parental rights. He said his department had worked with the judges very closely on this item, and he noted that his agency did not try to "hold on to the kids." He said the law was not needed, and he was opposed to it.

Mr. Pollard said that his concern was with Section 4, Parts 3 and 4, which would tend to keep parents from placing their children in foster homes for therapeutic reasons. He said he was against a comparison of a foster home with a natural home.

ASSEMBLY BILL 160

Provides for establishment of criteria for repayment by offenders for damage to state property.

Assemblyman Mann said that this bill was the best recommendation out of a package of bills concerning the prison system resulting from an interim study committee. He said it would require that an individual destroying property within the prison would be liable for the cost of the damage caused. He said the prisoners earn money which is put into accounts, and the accounts would be attached until the property that was damaged was paid for. He said inmates did \$100,000 worth of damage several years ago and then turned around and sued the State because it was not repaired soon enough.

Mr. Polish asked if this could also take money from outside sources connected with a prisoner. Assemblyman Mann answered that this would be just the money that would be available to each prisoner through his or her account. He said the prison system was already doing this, but the bill would give them statutory authority for it. He said that the prisoners could challenge this in a court of law any time their funds were taken.

ASSEMBLY BILL 200

Authorizes district courts to grant certain grandparents rights to visit grandchild.

Assemblyman Mann said this bill was drafted after talking to constituents whose son had divorced his wife, and the wife was awarded custody of the children. The woman had refused to let the constituents see the children of the divorced couple. Under Nevada law, he said there was not recourse so the couple could see their grandchildren.

Assemblyman Mann said 19 states had adopted similar legislation. He said he did not believe that grandparents should lose the rights to have a relationship with their blood grandchildren just because the parents of the children did not get along.

ASSEMBLY BILL 160

Mr. Medema said this bill provided statutory authority for a practice that is in existence. He said that in 1978, \$10,500 worth of damages was assessed to inmates, and about \$850 was collected. He said the bill was supported because it would support procedure in existence, but he said he did not want the Committee to think that it would provide any great monetary return to the State.

Mr. Stewart questioned if prisoners were given due process by attaching their accounts. Mr. Medema said that the prisoners

could appeal to a three-person panel of individuals working with the prison, and if they were not satisfied, they could appeal to the Director of the Prison. He said an inmate must sign a release of the funds, and if the inmate will not sign, there is a stalemate anyway. He said these situations could go to court, but the prison system was trying to avoid that type of action.

ASSEMBLY BILL 174

Provides penalties for certain damage to community antenna television systems.

Mr. Franke said that cable television companies are public utilities, and that this bill was an extension of existing statutes regarding public utilities. He said the same destructive acts and penalties are covered in this bill as are covered in statutes regarding other utilities.

Assemblyman Glover said that if businesses were to be regulated in the State, they should also be afforded protection that is given to other businesses.

Mr. Coulter asked if there was a lot of problem with damage. Mr. Franke answered that the damage mainly occurs when there is theft of service. A person would have to break into lock boxes where the cable television equipment is stored, and in multiple dwellings, the ones stealing service tap one point and affect the service to many people beyond that point.

Chairman Hayes asked if the cable television industry would be covered by Federal regulations. Mr. Franke answered that in most situations the Federal regulations would cover their industry, but not in this particular instance.

Mr. Romine offered testimony concerning intercepting a signal which could presently be done only by placing an antenna within inches of a signal amplifier that would operate from the radiation emanating from the amplifier. He said this would be illegal because of encroachment on the easement possessed by the utility.

ASSEMBLY BILL 29

Limits liability for damages arising out of certain activities of school of medical sciences, University of Nevada.

Chairman Hayes said she had a letter from Andrew Grose (Exhibit C) concerning the bill. She also said there had been an amendment prepared for this bill for the Committee's consideration, but she noted that it was not known who had requested the amendment.

ASSEMBLY BILL 119

Mr. Banner moved to indefinitely postpone; Mr. Horn seconded the motion. The Committee unanimously approved the motion.

ASSEMBLY BILL 160

Mr. Sena moved for Do Pass on A.B. 160; Mr. Polish seconded the motion. The Committee approved the motion by the following vote:

Aye - Hayes, Stewart, Brady, Coulter, Fielding, Horn,
Malone, Polish, Prengaman, Sena - 10.
Nay - Banner - 1.

Chairman Hayes asked Mr. Fielding to speak on this bill when it was considered on the Assembly floor.

ASSEMBLY BILL 200

Mr. Sena moved for a Do Pass.

Mr. Horn said that Assemblyman Westall was introducing a similar bill, and he suggested that the Committee defer action until the new bill could also be considered.

There was no second to the motion, and Chairman Hayes stated that the bill would be held for later Committee action.

ASSEMBLY BILL 174

Mr. Fielding said that he had been involved in working with television equipment, and he felt this was a good bill.

Mr. Horn said he had a problem that a person could be imprisoned for up to six years for damage that would be covered by this bill. Mr. Stewart said that this would have to be \$5,000 worth of damage, and a court would have to make the determination of the sentence.

Chairman Hayes stated that she could not imagine that actions described in the bill were not covered by present statutes. She asked Mr. Fielding to further check on this bill.

SENATE BILL 8

Mr. Stewart moved Do Pass; Mr. Sena seconded the motion. The Committee unanimously approved the motion.

Mr. Stewart moved to adjourn. The meeting was adjourned at 10:05 a.m.

Respectfully submitted,

Carl R. Ruthstrom, Jr.

Carl R. Ruthstrom, Jr.

(Committee Minutes) Secretary

PROPOSED AMENDMENT TO A.B. 119, Page 5, Line 35:

"however a child shall not be considered neglected for the sole reason that his parent or guardian, in good faith, selects and depends upon nonmedical remedial treatment for such child, if such treatment is recognized and permitted under the laws of this state in lieu of medical treatment."

See attached copies of:

NRS 200.5011

NRS 432.090

200.490 CRIMES AGAINST THE PERSON

(3) The person charged knew or should have known that the victim was an officer, for a felony.

(d) If the battery is committed with the use of a deadly weapon, by imprisonment in the state prison for not less than 2 years nor more than 10 years.

(Added to NRS by 1971, 1385; A 1973, 1444; 1975, 1063)

200.490 Provoking assault: Penalty. Every person who shall, by word, sign or gesture, willfully provoke, or attempt to provoke, another person to commit an assault shall be punished by a fine of not more than \$500.

[Part 1911 C&P § 150; RL § 6415; NCL § 10097]—(NRS A 1967, 473)

CHILD ABUSE AND NEGLECT

200.501 Policy of state declared. It is the policy of this state to provide for the cooperation of law enforcement officials, courts of competent jurisdiction, and all appropriate state agencies providing human services in relation to preventing, identifying and treating child abuse and neglect, through the complete reporting of child abuse and neglect and investigation of such reports by a social agency and the provision of services where needed, to protect the best interests of the child, to offer protective services in order to prevent any further harm to the child, to preserve family life whenever possible and to provide the child a temporary or permanent safe environment when necessary.

(Added to NRS by 1965, 546; A 1975, 791)

200.5011 Definitions. As used in NRS 200.501 to 200.508, inclusive:

1. "Child abuse and neglect" means the nonaccidental physical or mental injury, sexual abuse, negligent treatment or maltreatment of a child under the age of 18 years by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby.

2. A child is not abused or neglected, nor is his health or welfare harmed or threatened for the sole reason that his parent or guardian, in good faith, selects and depends upon nonmedical remedial treatment for such child, if such treatment is recognized and permitted under the laws of this state in lieu of medical treatment.

3. "Sexual abuse" includes but is not limited to acts upon a child constituting the crimes of:

- (a) Forcible rape under NRS 200.363;
- (b) Incest under NRS 201.180;
- (c) The infamous crime against nature under NRS 201.190;
- (d) Lewdness with a child under NRS 201.230;
- (e) Annoyance or molestation of a minor under NRS 207.260; and
- (f) Statutory rape under NRS 200.365.

(Added to NRS by 1975, 789, 1141)

(1975)

5830

432.090 PUBLIC CHILD WELFARE SERVICES

REGISTRIES FOR CHILD ABUSE AND NEGLECT

432.090 "Child abuse and neglect" defined.

1. As used in NRS 432.100 to 432.130, inclusive, "child abuse and neglect" means the nonaccidental physical or mental injury, sexual abuse, negligent treatment or maltreatment of a child under the age of 18 years by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby.

2. A child is not abused or neglected, nor is his health or welfare harmed or threatened for the sole reason that his parent or guardian, in good faith, selects and depends upon nonmedical remedial treatment for such child, if such treatment is recognized and permitted under the laws of this state in lieu of medical treatment.

(Added to NRS by 1975, 790)

432.100 Creation, maintenance of central registry; designation of regional registries.

1. There is hereby established a statewide central registry for child abuse and neglect.

2. The statewide central registry shall be maintained by and in the central office of the welfare division.

3. The welfare division may designate a county hospital in each county having a population of 100,000 or more as determined by the last preceding national census of the Bureau of the Census of the United States Department of Commerce, as a regional registry for child abuse and neglect.

(Added to NRS by 1975, 790; A 1977, 738)

432.110 Records of persons using central or regional registries. The welfare division shall maintain a record of the names and identifying data, dates and circumstances of any persons requesting or receiving information from the central or regional registries and any other information which might be helpful in furthering the purposes of NRS 432.120 and 432.130.

(Added to NRS by 1975, 790; A 1977, 738)

432.120 Confidentiality of registry information; expunging information; sealing records.

1. Reports made to the central or regional registries and any other information obtained for registry purposes and in the possession of the welfare division, or a designated hospital, is confidential and shall be made available only to persons and agencies enumerated in NRS 200.-5045.

2. Information shall not be released unless the right of the applicant to the information is confirmed and the released information discloses the nature of the disposition of the case or its current status.

(1977)

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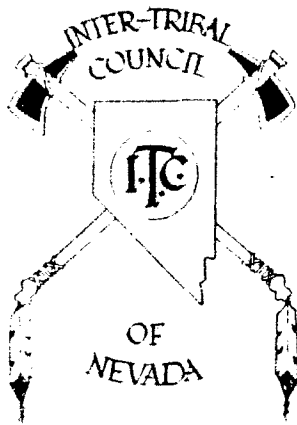


EXHIBIT B
INTER-TRIBAL COUNCIL OF NEVADA

SOCIAL SERVICES PROGRAM
ROOM 121, CAPITAL PLAZA BUILDING
1000 EAST WILLIAM STREET
CARSON CITY, NEVADA 89701
TELEPHONE (702) 882-6663

January 26, 1979

TO : The Assembly Judiciary Committee of the 60th Nevada Legislature

FROM: Joe Braswell, Director, Inter-Tribal Council of Nevada
Social Services Program

RE : A.B. 119

I wish to call the attention of the committee to recently enacted Federal legislation which, in my opinion, will have impact on the provisions of A.B. 119. The 95th Congress of the United States enacted S.1214, the Indian Child Welfare Act of 1978 in October, 1978. The measure was approved by the President of the United States on November 8, 1978, and became Public Law 95-608. Sections 101 through 104 of P.L. 95-608 appear to have particular relevance to the subject matter of A.B. 119. All other sections of Title I of P.L. 95-608 should also be considered in relation to this pending legislation. A copy of S.1214 has previously been provided to the Chairman of this committee. Today, I am also providing copies of the Congressional Committee reports that pertain to S.1214.

I do not appear before you today in opposition to A.B. 119. However, I do believe that careful analysis of P.L. 95-608 should be made as it will have impact on the implementation of A.B. 119, if enacted into Law. I believe it will be better for all concerned to include in A.B. 119 the language necessary to insure that it will not be in conflict with P.L. 95-608. In the long run, this might prevent State court decisions, rendered under NRS as amended by A.B. 119, from being challenged in Federal Court as not being in compliance with P.L. 95-608.

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU
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January 29, 1979

M E M O R A N D U M

TO: Assemblyman Karen W. Hayes
FROM: Andrew P. Grose, *Research Director*
SUBJECT: A.B. 29 - Sovereign Immunity

Jerry Lopez conveyed your inquiry about the extent to which other states have extended to the faculty and students of state medical schools the protection of a state's sovereign immunity. Nevada has waived sovereign immunity, of course, but the waiver is conditional. Even so, that conditional waiver still offers protection to the state and local entities found in fewer and fewer states. In some states, legislatures have waived sovereign immunity altogether. In others, the courts have eliminated the immunity.

The Association of American Medical Colleges staff knows of no state that extends the sovereign immunity protection, to whatever extent it may exist, to medical students in clinical work. In reviewing our bordering states and a couple of others, I could find nothing of the sort of protection afforded by A.B. 29 for students.

Idaho, Oregon, Arizona and California do not claim sovereign immunity at all. In Utah, "state" includes colleges and universities and "employee" includes faculty whether paid or not. Utah extends the immunity to student teachers but not to medical students.

Florida specifically excludes the board of regents from its limited sovereign immunity. This means the board must have

Page 2

full insurance for all its activities including the medical schools. In Colorado, "employees" includes those unpaid as well as paid but does not include students.

As best we can determine without an exhaustive state-by-state search, there is no other state with a sovereign immunity provision concerning medical students such as you have in A.B. 29.

APG/jld