

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

Guests Present:

Herbert F. Ahlswede, Clark County Public Defender  
Barbara Bailey, Nevada Trial Lawyers Association  
Cal Dunlap, Washoe County District Attorney  
Larry Ketzenberger, Las Vegas Metro Police Department  
Steve McMorris, Douglas County District Attorney  
Geno Menchetti, Chief Deputy Attorney General  
Tom Susich, Douglas County District Attorney's Office

Chairman Hayes called the meeting to order at 8:10 a.m.

ASSEMBLY BILL 320

Allows charge of habitual criminal by indictment.

ASSEMBLY BILL 321

Increases penalty for aiming or discharging  
weapon in certain circumstances endangering  
another and injury results.

ASSEMBLY BILL 322

Eliminates requirement of corroboration of certain  
testimony in prosecution for crime of enticing  
female for prostitution.

ASSEMBLY BILL 323

Clarifies admissibility of affidavits of expert  
witnesses in certain cases.

There were no comments or testimony on the above bills.

ASSEMBLY BILL 324

Specifies court in which petition to have criminal records sealed may be filed.

Mr. Herbert Ahlswede, Clark County Public Defender, gave his feelings on this bill. Mr. Ahlswede felt the defense attorney should be notified and if there was no attorney, then a registered letter should be mailed to the defendant himself. This is also to provide that notice be sent to defendant's counsel.

ASSEMBLY BILL 332

Eliminates requirement of endorsement of names on information.

Mr. Tom Susich, Chief Deputy District Attorney for Douglas County, stated that as the law now stands when information is filed the state is required to list names of witnesses with their addresses. Mr. Susich does not believe this is a constitutional mandate. There is currently no requirement that defense provide names to prosecution. Mr. Susich cited an incident where a case had an eye-witness but request was denied, the defense has no obligation to prosecution. Mr. Susich felt that it would be best if the requirement was eliminated on both sides. If a witness knows something about the case in question, who should be allowed to use it.

Mr. Cal Dunlap, Washoe County District Attorney, spoke next on AB 332. Mr. Dunlap stated that Washoe County did not have any problems regarding this situation. The defense discusses who the witnesses are. The defense does not have to produce names of witnesses until the time of the trial. Mr. Dunlap also stated that the defense is not required to take the stand and may refrain from listing witnesses.

Mr. Herbert Ahlswede, Clark County Public Defender, then expressed his opposition to AB 332. Mr. Ahlswede stated that this law has been in effect for over half a century and is not an antiquated law. Mr. Ahlswede felt that this information is to allow defense attorney to know what witness the prosecutor will call. This was not included when discovery statute was enacted. The defense attorney is to give the names of witnesses he reasonably expects to call. Defense cannot ask witness if he has ever been convicted of a felony nor ask any questions regarding his background or interest or relationship to defendant.

Mr. Prengaman felt that the facts were stacked in favor of the defense. Mr. Ahlswede stated that it was the duty of the prosecution to find out the names of witnesses in cases. Prosecution is usually on the scene of the crime, giving them the jump by days, weeks even months.

Ms. Barbara Bailey, Nevada Trial Lawyers Association, spoke next representing NTLA. Ms. Bailey stated NTLA's opposition to AB 322 - they felt AB 332 is in favor of the defendant.

ASSEMBLY BILL 314

Specifies period within which action for taking private property without compensation must be brought.

Mr. Steve McMorris, Douglas County District Attorney, stated this bill proposed no limit at this time. It was stated that this bill came out of Douglas County and was questioned as to the need of this bill. Mr. McMorris felt that there was no need for this bill but the larger counties felt it was necessary.

ASSEMBLY BILL 317

Requires full period of suspension of driver's license be carried out, after reinstatement pending appeal, if suspension is affirmed.

Geno Menchetti, Chief Deputy Attorney General, stated that AB 317 was introduced by the District Attorney in Pershing County. This bill did not originate with the Association and felt that since these were not the Association's bills, he would stay out.

ASSEMBLY BILL 316

Reclassifies certain batteries as to type of crime.

Mr. Tom Susich, Douglas County District Attorney's Office, felt that the statute as now written makes certain batteries a crime. If a battery is not committed with a weapon and no injury results, the party is guilty of a misdemeanor. Mr. Malone stated that he had known of an individual who was beaten up by several people but no deadly weapon was used and no substantial bodily harm done. As the bill now exists this would not be considered a crime. The remedy is to change Subsection B, NRS 200.481 to physical injury.

ASSEMBLY BILL 143

Revises test for obscenity and provides civil remedies.

Mr. Stewart stated that there were changes in AB 143 that he felt should be made. The Miller Stand provides a new test for obscenity -

1. Provides for conjunctions so that prosecution is exempt from provisions.

2. Public institutions, i.e. libraries.
3. If landlord has bookstore and is convicted of selling pornography, failure to comply with law may mean eviction.

Mr. Stewart felt that Page 2, line 34, making pornography available to minors, should be included in a separate bill.

Mr. Stewart further stated that he felt there should be three initial parts to AB 143:

1. Accept Miller Stand
2. Public Institutions
3. Civil Remedies .

The remainder of the material should be removed from the bill. Mr. Stewart felt that the bill should be passed out and sent to the floor and have rebilled so that it can be addressed with the 3 essential parts listed above.

Mr. Malone was in agreement with this bill but felt it should clearly define deviate groups.

Chairman Hayes suggested getting amendment reprints would cut out a lot of time. She felt this should be put on the floor in order to obtain reprints and amendments.

Mr. Malone made the motion to take AB 143 to the floor to have reprinted and amended. Mr. Horn seconded the motion. The Committee unanimously approved the motion.

#### ASSEMBLY BILL 317

Mr. Stewart stated that he had spoken with District Attorney Bob Miller for clarification on AB 317. He felt that a change is necessary in order to make this bill clear. A proposed period of time for reinstatement was suggested.

Mr. Banner made the motion for passage of this bill. Mr. Coulter seconded the motion. The Committee unanimously approved the motion.

#### ASSEMBLY BILL 115

Adopts the Uniform Child Custody Jurisdiction Act.

Mr. Banner moved Do Pass As Amended; Mr. Sena seconded the motion. The Committee unanimously approved the motion.

ASSEMBLY BILL 96

Provides for periodic payments of certain damages recovered in malpractice claims against providers of health care.

Mr. Banner made the motion to Indefinitely Postpone, Mr. Fielding seconded the motion. The Committee approved the motion on the following vote:

Aye - Hayes, Stewart, Banner, Fielding, Malone,  
Polish, Prengaman - 7

Nay - Brady, Coulter, Horn - 3

Not Voting - Sena - 1

ASSEMBLY BILL 95

Provides certain immunity from civil damages to physician who provides treatment to patient in rural community in emergency.

Mr. Prengaman made the motion to Do Pass with no recommendations; Mr. Fielding seconded the motion. The Committee approved the motion on the following vote:

Aye - Hayes, Stewart, Fielding, Malone, Polish,  
Prengaman, Sena - 7

Nay - Banner, Brady, Coulter, Horn - 4

ASSEMBLY BILL 332

Eliminates requirement of endorsement of names on information.

Mr. Sena moved to Indefinitely Postpone AB 332. Mr. Horn seconded the motion. The Committee unanimously approved the motion.

ASSEMBLY BILL 320

Allows charge of habitual criminal by indictment.

Mr. Polish made the motion to Indefinitely Postpone; Mr. Sena seconded the motion. The Committee unanimously approved the motion.

ASSEMBLY BILL 321

Increases penalty for aiming or discharging weapon in certain circumstances endangering another and injury results.

Mr. Sena moved to Indefinitely Postpone AB 321; Mr. Prengaman seconded the motion. The Committee approved the motion on the following vote:

Aye - Hayes, Banner, Brady, Coulter, Fielding, Horn  
Malone, Polish, Prengaman, Sena - 10

Nay - Stewart - 1

ASSEMBLY BILL 322

Eliminates requirement of corroboration of certain testimony in prosecution for crime of enticing female for prostitution.

Mr. Brady made the motion to Indefinitely Postpone AB 322; Mr. Sena seconded the motion. The Committee unanimously approved the motion.

ASSEMBLY BILL 323

Clarifies admissibility of affidavits of expert witnesses in certain cases.

Mr. Polish made the motion to Indefinitely Postpone AB 323; Mr. Banner seconded the motion. The Committee approved the motion on the following vote:

Aye - Hayes, Stewart, Banner, Brady, Coulter, Fielding,  
Horn, Polish, Prengaman, Sena - 10

Nay - Malone - 1

ASSEMBLY BILL 324

Specifies court in which petition to have criminal records sealed may be filed.

Mr. Polish made the motion to Indefinitely Postpone this bill; Mr. Banner seconded the motion. The Committee unanimously approved the motion.

Mr. Prengaman made the motion to adjourn the meeting; Mr. Stewart seconded the motion. The meeting was adjourned at 9:55 a.m.

Respectfully submitted,

*Sharon Day*

Secretary

(Committee Minutes)