

Members Present:

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

Members Absent:

Mr. Polish (Excused)

Guests Present:

Barbara Bailey	Nevada Trial Lawyers
Cal Dunlap	Washoe County District Attorney
Larry Ketzenberger	Las Vegas Metro Police Department
Bill Macdonald	Humboldt County District Attorney
Sam Mamet	Clark County
Steven McMorris	Douglas County District Attorney
Geno Menchetti	Deputy Attorney General
David Small	Carson City District Attorney

Chairman Hayes called the meeting to order at 8:03 a.m.

COMMITTEE BILL INTRODUCTIONS

Chairman Hayes noted that copies of proposed legislation were being circulated among the Committee members for consideration as Committee introductions.

ASSEMBLY BILL 181

Includes theft of automobile regardless of its value in grand larceny.

Mr. McMorris said that this was a bill suggested by the Clark County District Attorney. He said that the main purpose of the bill is to eliminate the necessity of having to prove \$100 value for an automobile. He said that the feeling of the District Attorneys Association would be to support this legislation. He said that a bill was to be introduced that would increase the \$100 amount to \$250 in this statute.

Mr. Dunlap said that with newer automobiles, the blue book can be used to establish value. He said that with older vehicles, as with any object, there is difficulty in determining value. He said a great deal of expense can be incurred in going to trial when there is some closeness to the \$100 figure on the value of the car. He said that in the case of

stealing livestock, there is no requirement to show value. He felt that theft of a vehicle was generally a more sophisticated crime, and the people that commit this crime should be charged with a felony offense.

Mr. Macdonald stated his agreement with the testimony that had been given.

Mr. Menchetti spoke briefly to the Committee concerning the makeup of the group that was working on a number of bills, including A.B. 181, and he said the group voted to support all of the bills which he would be appearing in favor of.

ASSEMBLY BILL 187

Provides penalty for solicitation of felony if no criminal act is committed.

Mr. Small said that as the law presently reads, a person can seek to hire someone for a contract murder, but as long as there are no steps taken to further the murder, it is considered that there was no crime. He said the bill would make the solicitation of a felony a crime.

Mr. Brady asked what type of solicitation might occur that could be covered by this bill other than contract murder. Mr. Small suggested the example of someone who would solicit a twenty-one dealer to set up a cheating scam.

Mr. Malone said that the Federal Aviation Administration already has this type of law where a person is arrested for saying that he or she is going to hijack an airplane.

Mr. Ketzenberger outlined some of the situations that had been encountered in Las Vegas where this statute would be helpful in prosecutions. He noted that police officers cannot be involved in conspiracies as might be envisioned when an undercover agent would be approached because the undercover person would not realistically conspire with the other person to commit a crime.

Mr. Prengaman asked if it was felt that convictions could be obtained if this bill was passed. Mr. Ketzenberger said that arrests would not be made until there was some real evidence such as the passing of money or the making of plans.

Mr. Horn suggested creating a "shopping list" of crimes that would be covered by this bill. Mr. Ketzenberger said that from a law enforcement point of view, if the bill was not acceptable in its present form that any consideration the Committee could give for at least capital crimes would be appreciated.

Mr. Dunlap said that when a list of categories is created, there always ends up being some type of problem. He said he would like to see the application of a felony offense for

solicitation of felonies. He related that there have been instances of adults soliciting children to commit burglaries, and there have been in Washoe County many instances of solicitation of gaming offenses.

Chairman Hayes said that in most cases these situations would be covered by conspiracy laws. Mr. Dunlap answered that if two criminals get together, that would be a conspiracy. He said, however, that a police officer is legally limited from being a conspirator.

Mr. Menchetti said that there were proposed amendments to this bill from his office. He said that the bill is much too weak and does not solve the problems at all. He said that Nevada is one of the few states without the crime of solicitation.

Mr. Stewart noted that there are presently laws concerning solicitation, including prostitution and bribery laws. He said that solicitation of minors to commit various crimes would come under contributing to the delinquency of a minor.

Mr. Menchetti said that if the Committee did not feel they could pass the bill as it is written, there were some things that have to still be addressed by this session of the Legislature.

ASSEMBLY BILL 184

Changes penalties for destruction of property.

Mr. McMorris said that the District Attorneys Association supports the bill with certain amendments. He said that on Line 5 of the bill, the amount should be \$1,000 rather than \$100. He said that the provision on Lines 10 and 11 of the bill relating to gross misdemeanors should be kept in the bill with proper amendments of the dollar amounts.

Mr. McMorris said that the proposed amounts in comparison to the related offenses would be as follows: \$0 to \$250 in damage would be a misdemeanor; more than \$250 up to \$1,000 would be a gross misdemeanor; and any amount over \$1,000 would be a felony. He noted that under the present statute making \$25 to \$250 in damage a misdemeanor sometimes causes problems by taking up hours of courtroom time trying to establish if damage was done in an amount more than \$25.

Mr. Macdonald said that without this statute he experiences the difficulty of explaining to a person why the theft of a \$125 lawn mower is a felony, but causing \$4,000 worth of damage to the individual's property is a gross misdemeanor.

ASSEMBLY BILL 183

Permits witness to acknowledge receipt of district attorney's subpoena and provides penalty for disobedience.

(Committee Minutes)

Mr. Dunlap said that a large number of subpoenas are served on police officers. He said the practice has been to send a group of subpoenas to the police station, and the officers sign and acknowledge the subpoenas they each receive. He said this is not a legal procedure, and if for some reason an officer does not show up, a defense attorney can move to dismiss a case. He said that if the bill was passed, the procedure would be legal, and a case could not be dismissed for the nonappearance of a police officer. He noted that this process would also be helpful in delivering subpoenas to out-of-State individuals.

Mr. Stewart said he thought this procedure was good, but he questioned the use of the term "acknowledge" because it was not clear if this had to be a formal acknowledgement or not.

Mr. Dunlap said that his office would insist that an acknowledgement would be in writing. He did agree that under the present language of the bill, a telephone conversation could acknowledge receipt of a subpoena.

Mr. Macdonald agreed that the acknowledgement of a subpoena should be in a written form.

ASSEMBLY BILL 188

Permits additional fees for court-appointed attorneys in criminal trials by jury.

Mr. Mamet said that this bill would propose to allow court-appointed attorneys representing indigents to be compensated an additional \$200 per day for any matters preceding a trial by jury. It would further define extraordinary circumstances to clarify what constitutes an unusual complexity in defending an indigent person. He related the amounts that have been spent in Clark County for outside attorneys in the last five fiscal years. He said he did not know what the additional cost would be in Clark County, but he said the Committee should delay action until a fiscal note could be prepared.

ASSEMBLY BILL 185

Clarifies grounds for dismissal of complaint in criminal cases in justices' courts and on appeal.

Mr. Small said that in Carson City there had recently been a complaint filed charging 11 counts of traffic offenses. He said the complaint was thrown out of the Justice Court because there was more than one count on the complaint. He said this bill would clarify the law to say that a complaint should not contain more than one offense.

Mr. McMorris said that a similar situation occurred in Douglas County where a person was charged with six counts on one complaint. He said that the person had appealed the conviction on the grounds that there was more than one count on the complaint.

(Committee Minutes)

ASSEMBLY BILL 181

Mr. Coulter moved Do Pass; Mr. Sena seconded the motion. The Committee approved the motion on the following vote:

Aye - Banner, Brady, Coulter, Fielding, Horn, Malone,
Sena - 7.
Nay - Hayes, Stewart - 2.
Absent - Polish, Prengaman - 2.

Chairman Hayes asked Mr. Banner to speak on the Assembly floor concerning this bill.

ASSEMBLY BILL 183

Chairman Hayes said that Mr. Stewart would look further into this bill for consideration of possible amendments.

ASSEMBLY BILL 184

Chairman Hayes said that there would have to be amendments on this bill which would be as follows:

Line 5: New language of \$100 should be \$1,000.
Line 10: Remove bracket.
Line 11: Change \$5,000 to \$1,000.
Line 12: Remove bracket following "3."
Line 13: Leave new language of \$100 as \$250.

Mr. Stewart moved Do Pass with amendments; Mr. Sena seconded the motion. The Committee approved the motion on the following vote:

Aye - Hayes, Stewart, Banner, Brady, Coulter, Fielding,
Horn, Malone, Sena - 9.
Nay - None.
Absent - Polish, Prengaman - 2.

Chairman Hayes asked Mr. Brady to speak on the Assembly floor concerning this bill.

ASSEMBLY BILL 185

Mr. Fielding moved for Do Pass; Mr. Sena seconded the motion. The Committee approved the motion on the following vote:

Aye - Hayes, Stewart, Banner, Brady, Coulter, Fielding,
Horn, Malone, Sena - 9.
Nay - None.
Absent - Polish, Prengaman - 2.

Chairman Hayes asked Mr. Fielding to speak on the Assembly floor concerning this bill.

ASSEMBLY BILL 95

Chairman Hayes said she had received amendments to this bill submitted by Assemblyman Getto. She said she felt this bill was giving a physician the license to commit malpractice.

Mr. Stewart said he felt it had been justified that the bill would not be immunizing a doctor from a malpractice claim. He said that the test for consideration of malpractice was being changed. He said that a doctor would not be reckless in the sense of a complete disregard to a patient's life. He said the Legislature has already taken a step in this direction in emergency situations along the highway.

Mr. Banner said that it had been found through several legislative subcommittees that malpractice insurance was always available for doctors in the State, but about one-third of the doctors in the State are going without this coverage. He said that the increasing price of liability insurance was not unique to just doctors. He said that there are not other groups presently asking for immunity from liability. He said that if a doctor is negligent, he should be responsible for his negligence.

Mr. Malone stated that he felt that a doctor, as a professional, has to do his job without worrying about being sued for malpractice. He said he would not want to be in an area where a doctor would not treat him because of a threat of malpractice. He said that in his duties as a policeman, he would not avoid arresting an individual because of the fear of a false arrest suit.

Chairman Hayes said that the doctors have a screening panel for malpractice matters and that the Legislature had passed all types of legislation concerning malpractice. She said that if she felt this bill would do any good she would support it. She said that she felt the situation presently was a battle between lawyers, doctors, and insurance companies, and the victims were being forgotten.

Mr. Brady noted that testimony had indicated that the doctors are presently avoiding treatment of patients in some instances by not showing up at the hospital.

Mr. Stewart stated that attorneys had appeared before the Committee to oppose the bill. He said that this was not a bill for the lawyers.

On the request of the chair for a motion, Mr. Sena moved to adjourn; Mr. Coulter seconded the motion. On a voice vote, Chairman Hayes declared the motion lost.

Mr. Banner moved for indefinite postponement of the bill. The motion died for the lack of a second.

Mr. Stewart moved Do Pass; Mr. Coulter seconded the motion. The motion failed to receive the required majority, and the vote was as follows:

Aye - Stewart, Coulter, Fielding, Horn, Malone - 5.
Nay - Hayes, Banner, Brady, Sena - 4.
Absent - Polish, Prengaman - 2.

ASSEMBLY BILL 96

Mr. Stewart moved for indefinite postponement; Mr. Banner seconded the motion. The motion failed to received the required majority, and the vote was as follows:

Aye - Hayes, Stewart, Banner, Brady, Malone - 5.
Nay - Coulter, Fielding, Horn - 3.
Not Voting - Sena - 1.
Absent - Polish, Prengaman - 2.

Mr. Horn and Mr. Brady offered to serve on a subcommittee concerning malpractice insurance.

Chairman Hayes adjourned the meeting at 9:50 a.m.

Respectfully submitted,



Carl R. Ruthstrom, Jr.
Secretary