

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:

Senator Mel Close
Mike Malloy
Steve McMorris
Abner W. Sewell

Chairman Senate Judiciary
Washoe County District Attorney
Douglas County District Attorney
Deputy Secretary of State

Vice Chairman Stewart called the meeting to order at 9:10 a.m.

SENATE BILL 27

Abolishes causes of action for seduction and criminal conversation.

Senator Close, Chairman, Senate Judiciary Committee, testified on behalf of SB 27. Senator Close stated that this bill abolishes two formerly common-law causes of action which were enacted into law by the legislature. Senator Close stated that the cause of action for seduction is a cause of action that can be brought by the parents if the person is under 18 years of age; if over 18 the action is brought by the individual herself for sexual activity. Criminal conversation is an action that can be brought by a married person by another person who has involved the other spouse in sexual activity. Senator Close's feelings were that both causes of action were outdated. If the person is under 18 years of age and involved in sexual activity, there is a statutory rape statute; if over 18 years of age, this statute is used as bargaining tool in divorce actions. Senator Close said that there had never been a case filed in the past 10 years through either one of these causes of action in Nevada. Senator Close said that he had been told by one judge that this bill should not be passed because attorneys use it often in divorce settlements.

SB 27

Senator Close defined the meaning of criminal conversation as that of sexual involvement of one adult with another when that party is married, it is synonymous with adultery. Criminal seduction involves single people; criminal conversation involves married people.

SENATE BILL 102

Adds to procedural requirements for disqualification of judges.

Senator Close stated that if a judge is going to be disqualified or if a motion is made to disqualify a judge, that judge is entitled to be given a copy of the affidavit that relates to disqualification. As it now stands the disqualification papers can be filed and the judge never made aware of it and not given the opportunity to defend himself or answer or respond to the affidavit.

SENATE BILL 125

Permits district attorney to prosecute certain crimes involving securities.

Senator Close stated that this broadens the power of those who can prosecute crimes for security violations. At the present time only the Attorney General can bring a suit for security violations after they have been referred to him by the Secretary of State. Senator Close said that the Secretary of State requested that this bill be broadened to include those who can prosecute this type of criminal violation.

In answer to Mr. Brady's question as to what crimes are involved when speaking of securities, Senator Close said there were a whole series of statutes that have been passed not requiring registration of certain securities within the state. Any violation of that act right now can only be prosecuted by the Attorney General. Selling stock illegally, selling stock without registration in the state is included in this category.

Mr. Sewell, Deputy Secretary of State, stated that this is a convenience factor, manpower factor and cost factor. At the present time the district attorney can prosecute nearly every case that involves criminal activity, why the Secretary of State cannot refer criminal acts involving securities to the district attorney is unknown, there is no reasonable justification for this exclusion.

SB 125

Mr. Horn asked if this would broaden the powering scope of the district attorney. Mr. Sewell said that the district attorney has so many powers now this would be really a rather insignificant broadening of his power. The district attorney does not normally investigate security frauds, this would come from the Secretary of State's office. They would refer those types of cases to the district attorney. Mr. Sewell said that the district attorney's office did not seek this power, this came from the Secretary of State's office, they felt it was appropriate to be allowed this additional right to refer cases to the district attorney as well as Attorney Generals.

Mr. Polish stated that there was a fiscal note involved in this which was charged to local areas rather than the state and asked if this is to be prosecuted on a state statute why not have it reimbursed through the state funds. Mr. Sewell said the costs would not be that substantial. There are two large counties where violations are likely to occur and the case load in these counties is already so heavy that having one or two more cases is not going to cause a great deal of problems in either county. In the smaller counties the likelihood of having a case of this nature is more remote than in one of the larger counties.

Mr. Mike Malloy, Washoe County District Attorney, stated that at this time their office is strapped for manpower and investigative resources. Mr. Malloy stated that if one case went to a jury trial it would probably take two to three weeks. Mr. Malloy said they would not be able to jump right in and prosecute every security violation that came along. In response to Chairman Hayes' question, Mr. Malloy said that if they were given this responsibility, they would have to hire someone else, someone with the expertise in that field. At the present time they do not have anyone in their office who could take full charge of a case like this.

Mr. Steve McMorris, Douglas County District Attorney, stated that he would be unable to take one case a year. One of these type cases could take months to gather, investigate, prepare prosecution and try. Mr. McMorris said that if they got a case like this in Douglas County and they were required to prosecute he would turn it over to someone else. This type case takes a tremendous amount of time to try. It requires expertise and Mr. McMorris felt that there is not a county in Nevada who has the expertise to handle this type case. Mr. McMorris suggested that money be appropriated for someone in the attorney general's office to handle these types of cases. Mr. McMorris felt that this type case should stay in the Attorney General's office. Mr. McMorris said that he had not expressed his opinions in the Senate committee.

ASSEMBLY BILL 181

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

Chairman Hayes stated that she had received a conflict notice regarding AB 181, they changed "automobile" to "motor vehicle". The question was asked if this included motorcycles. Chairman Hayes stated that she would check into this further.

SB 27

Mr. Malone made the motion Do Pass; Mr. Horn seconded the motion. The Committee approved the motion on the following vote:

Aye - Hayes, Stewart, Brady, Coulter, Fielding, Horn,
Malone, Polish, Prengaman - 9

Nay - Banner - 1

Not Voting - Sena - 1

SB 102

Mr. Banner made the motion Do Pass; Mr. Polish seconded the motion. The Committee approved the motion on the following vote:

Aye - Hayes, Stewart, Brady, Banner, Coulter, Fielding,
Horn, Malone, Polish - 9

Nay - Prengaman - 1

Not Voting - Sena - 1

SB 125

Chairman Hayes moved for Indefinite Postponement of SB 125; Mr. Malone seconded the motion. The Committee unanimously approved the motion.

ASSEMBLY BILL 267

Provides additional penalty for certain crimes against blind and aged persons.

Mr. Horn made the motion Do Pass As Amended deleting the word "larceny" from the amendment; Mr. Malone seconded the motion. The Committee unanimously approved the motion.

Chairman Hayes adjourned the meeting at 10:05 a.m.

Respectfully submitted,

Sharon L. Day
Sharon L. Day
Secretary

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