

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:

Pat Bates	State Coordinator for the Bureau of Alcohol and Drug Abuse
Martha Coon	Governor's Advisory Board on Drug Abuse
Bill Wollitz	Director, Northern Area Substance Abuse Council

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

ASSEMBLY BILL 186

Limits to district courts authority to order civil commitment of alcoholics and drug addicts charged with crimes and makes plea of guilt condition of defendants' eligibility.

Bill Wollitz, Director of the Northern Area Substance Abuse Council in Reno directed his remarks specifically to the problem of alcoholism locally and the need for treatment to be made available to persons entering all courts, including municipal and justice. Mr. Wollitz stated he supports the amendment in that regard. NASAC is an intake and referral agency for substance abuse programs in Washoe County. Its function is to screen all persons seeking treatment and appropriately refer them to a bureau funded alcohol and drug abuse treatment facility or to counselors in the private sector. NASAC also runs a 16 bed alcohol detoxification facility on the grounds of the Nevada Mental Health Institute. Mr. Wollitz said that in the three months they have been open 275 persons have been detoxed through the facility. A publication by the Businessmen's Research Foundation several years ago, ranked Nevada as number two in the nation in per capita consumption of alcohol. Updated

AB 186

data shows that we may rank number one. Mr. Wollitz stated that tourists are not the ones that are doing all the drinking. Records of the Reno Police Department detained over 6,000 persons last year for public intoxication under the Civil Protection Custody law and between 1,200 and 1,400 persons were arrested for driving under the influence, of which 85% to 90% were Washoe County residents. Mr. Wollitz stated that nearly 80% of the thousand or so people seen last year as clients and another 400 to 500 that were provided some services at NASAC were Washoe County residents. It was found that in studying these clients simply being arrested, paying fines, losing their licenses, etc., did not stop the pattern because nothing was done about their alcoholism. Since pulling a person's license does not interfere with the car's ability to run, people continue to drive whether they have a license or not. Dr. Carducci, Psychological Consultant, submitted a letter to Mrs. Hayes regarding AB 186, see Exhibit A.

Mr. Wollitz stated that they are pleased with the results of their efforts to treat those referred by the court. It has been documented that approximately 15% of the people who were sent to NASAC by municipal courts for alcohol related offenses have once again been arrested for alcohol related offenses. These people are paying for their own treatment, consequently there is no cost to the tax payer. Their philosophy is that if a person can afford to drink and drive he can afford to pay for treatment. Mr. Wollitz stated this is not a way for persons to escape the responsibility, if a person fails to follow through in the program he is immediately kicked back to the judge for further sentencing. Mr. Wollitz's feelings were that all courts be afforded the ability to send eligible clients to treatment and that a person should and must go for treatment whether he goes to jail or not because sending a person to jail is not going to stop him from drinking.

Mrs. Martha Coon, Governor's Advisory Board on Drug Abuse, stated she was active in almost every phase of alcohol treatment and activity in Northern Nevada. She said that experience showed that in every area a crisis is often the most productive element in bringing an alcoholic or substance abuser amenable to treatment. One of the most productive crises is a legal one, others are divorce, loss of job, serious illness, etc. Mrs. Coon stated she was not in favor of the bill unless the amendment is included, you would be depriving people of one of the most important ways of crisis treatment. In regard to people driving with or without a license, Mrs. Coon stated that it had been her experience that the practicing alcoholic and particularly when he is drinking, does not care whether he has a license in his pocket or not. If he wants to drive a car he'll drive. Many of the real critical accidents have been because of this.

AB 186

Mrs. Pat Bates, State Coordinator for the Bureau of Alcohol and Drug Abuse stated the Bureau opposes AB 186 as written. They do not feel people should have to plead guilty because it creates an additional cost to probation and supervision. Section 458 of NRS was enacted a few years ago with the intent of allowing substance abusing offenders a treatment oriented alternative to a fine or incarceration. The civil commitment procedure was viewed as a diversion program which recognized that serious drug and alcohol abusers should be given treatment through the health system rather than criminal justice processing. Mrs. Bates felt that enactment of AB 186 would reduce the range of options presently available to lower court magistrates. Under present law the offender would have charges dismissed after successfully completing treatment, therefore no conviction record. Under AB 186 although charges would still be dismissed the offender would have a criminal record of both arrest and conviction. Carrying a conviction record, even though treatment was completed satisfactorily is contrary to the concept of diversion away from the criminal justice system.

ASSEMBLY BILL 22

Allows costs in cases involving public bodies.

Mr. Stewart stated this bill would enable the local governments and state governments to obtain costs in an action, this would not cover attorney fees.

Mr. Malone made the motion to Indefinitely Postpone AB 22; Mr. Sena seconded the motion. The Committee approved the motion on the following vote:

Aye - Hayes, Stewart, Coulter, Fielding, Malone, Polish, Prengaman, Sena - 8

Nay - Banner, Brady, Horn - 3

ASSEMBLY BILL 28

Raises monetary limit of jurisdiction of justices' courts.

Mr. Stewart stated that the Senate has a similar bill with proposed amendments to this bill which he favored except for the amount of jurisdiction. Mr. Stewart said that \$2,000 was the original amount set by the Senate, the Assembly's was \$1,200. Mr. Stewart suggested that the Assembly go with \$750 and said that J.P.'s could absorb this without too much trouble. Mr. Stewart suggested the amendment be modified as follows:

Claim under \$300 - \$8 filing fee
Claim between \$300 & \$750 - \$15 filing fee
All other civil actions - \$15 filing fee

AB 28

Mr. Sena made the motion to adopt amendments to AB 28; Mr. Stewart seconded the motion. The Committee unanimously approved the motion.

Mr. Sena made the motion Do Pass AB 28 as amended; Mr. Malone seconded the motion. The Committee unanimously approved the motion.

ASSEMBLY BILL 46

Requires that certain agreements to which consumers are parties be written in plain language.

Chairman Hayes stated that the problem is with the definition, what may be clear language to one person may not be clear to another. Mr. Stewart stated that New York had problems with their statute and felt that finding what is plain language may cause more litigation.

Mr. Banner moved Do Pass; Mr. Fielding seconded the motion. Motion lost on the following vote:

Aye - Banner, Fielding, Prengaman - 3
Nay - Hayes, Stewart, Coulter, Malone, Polish, Sena - 6
Absent - Brady, Horn - 2

Mr. Stewart made the motion to Indefinitely Postpone AB 46; Mr. Sena seconded the motion. Under Committee Rule 3, the motion lost on the following vote:

Aye - Hayes, Stewart, Malone, Sena - 4
Nay - Coulter, Fielding, Prengaman - 3
Not Voting - Banner, Polish - 2
Absent - Brady, Horn - 2

ASSEMBLY BILL 30

Changes certain procedures for defending actions against public officers and employees.

Chairman Hayes stated this bill does have merit but needed more clarification. A subcommittee of Mr. Banner and Mrs. Stewart was appointed to get more information.

ASSEMBLY BILL 187

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

Mr. Frank Daykin, Legislative Counsel Bureau, proposed an amendment that would remove reference to any felony and substituted "specified crimes", murder, kidnapping and perhaps sexual assault. Mr. Daykin stated the other proposal that went in with the original request for an amendment was to take out the phrase, "if no criminal act is committed as a result of the solicitation".

AB 187

Under NRS 195.020 every person concerned in the commission of a felony, gross misdemeanor or misdemeanor, who directly or indirectly counsels, encourages, hires, commands, induces, or otherwise procures another to commit a felony, is a principal and shall be proceeded against and punished as such. If a criminal act is committed as a result of the solicitation the person who solicits is a principal in that criminal act and therefore we do not need or want a separate statute on solicitation because its only effect would be to provide in some cases, a lesser penalty than the law already provides. Mr. Daykin suggested that if the Committee is going to pass out the bill it be amended to limit the felonies involved but leave the final phrase, "if no criminal act is committed".

Mr. Calvin Dunlap, Washoe County District Attorney, stated that arson, kidnapping, murder and robbery should be included because they are the more serious offenses.

Mr. Stewart made the motion to Rescind Previous Action on AB 187; Mr. Malone seconded the motion. The Committee unanimously approved the motion.

Mr. Stewart made the motion to Amend AB 187 to specify the crimes of arson, kidnapping, robbery and murder. Mr. Malone seconded the motion. The Committee approved the motion on the following vote:

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

Nay - Hayes - 1

Mr. Malone made the motion Do Pass AB 187 As Amended; Mr. Horn seconded the motion. The Committee approved the motion on the following vote:

Aye - Stewart, Brady, Coulter, Fielding, Horn, Malone,
Prengaman, Sena - 8

Nay - Hayes, Banner, Polish - 3

ASSEMBLY BILL 483

Revises method of selecting grand juries in larger counties.

Mr. Daykin said this bill was directed only to the larger counties, at present it would apply to Clark, Washoe and Carson City. Chairman Hayes suggested dropping "district judge" and leaving "district judges". Chairman Hayes said a motion was not needed on this bill.

ASSEMBLY BILL 178

Limits issuance of search warrants for premises of newspaper or broadcasting facility.

Mr. Coulter stated that he had received a copy of President Carter's proposed legislation that will be introduced to Congress. Mr. Dunlap said he had received a letter from the National District Attorney's Association and they had the same problems with the definition of news media and premises on that and needed input as far as the Carter proposal. Mr. Dunlap said he disagreed with the California law since they are the ones issuing the search warrants.

Mr. Coulter made the motion Do Pass as Amended; Mr. Prengaman seconded the motion. The motion failed on the following vote:

Aye - Hayes, Coulter, Prengaman - 3

Nay - Stewart, Banner, Brady, Fielding, Horn, Malone,
Polish, Sena - 8

Mr. Malone made the motion to Indefinitely Postpone AB 178; Mr. Fielding seconded the motion. The Committee approved the motion on the following vote:

Aye - Stewart, Banner, Brady, Fielding, Horn, Malone,
Polish, Sena - 8

Nay - Hayes, Coulter, Prengaman - 3

Mr. Coulter made the motion that a resolution be drafted calling for an interim study on the questions of administrative subpoenas and on validity of the Newsman Shield law in relation to the Stanford Daily Decision. Mr. Prengaman seconded the motion. The Committee unanimously approved the motion.

ASSEMBLY BILL 179

Prohibits commercial use of telephone for soliciting persons at home to make purchases.

Mr. Sena made the motion to Indefinitely Postpone AB 179; Mr. Stewart seconded the motion. The Committee approved the motion on the following vote:

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

Nay - Horn - 1

ASSEMBLY BILL 186

Limits to district courts authority to order civil commitment of alcoholics and drug addicts charged with crimes and makes plea of guilt condition of defendants' eligibility.

Mr. Stewart felt this bill did not address the point system, felt that the point system might be better addressed in another bill. What the amendments would do would first require a judgement of guilt, than the person can be placed in a treatment center and if successfully completes the treatment, charges are dismissed. This would allow the J.P. and municipal courts to continue in their use of this program.

Mr. Malone made the motion to Indefinitely Postpone AB 186; because of lack of second Mr. Malone withdrew his motion.

Mr. Banner felt the bill as it is currently written is a step in the right direction, if it is passed now we will be working forward.

Mr. Sena made the motion to Adopt Amendments to AB 186*; Mr. Banner seconded the motion. The Committee unanimously approved the motion.

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

*The amendment would change "will be dismissed" to "may be dismissed".

ASSEMBLY BILL 200

Authorizes district courts to grant certain grand-parents right to visit grandchild.

Mr. Stewart made the motion to Indefinitely Postpone AB 200; Mr. Prengaman seconded the motion. The Committee approved

AB 200

the motion on the following vote:

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

Nay - Sena - 1

ASSEMBLY BILL 226

Removes distinctions based on sex from several sections
of chapter 126 of NRS.

Mr. Sena made the motion to Indefinitely Postpone AB 226; Mr.
Stewart seconded the motion. The Committee approved the motion
on the following vote:

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

Nay - Coulter - 1

ASSEMBLY BILL 228

Removes distinctions based on sex from NRS 82.310.

Chairman Hayes stated that she had received a letter from the
St. Peter's Episcopal Church Diocesan Canon Law Committee requesting
that the Committee repeal AB 228 and that a petition would be
forthcoming. Chairman Hayes stated AB 228 would be held until
the petition is received. See Exhibit B.

ASSEMBLY BILL 231

Authorizes district courts to grant certain relatives
of deceased parent right to visit that parent's
unmarried minor child.

Mr. Sena made the motion Do Pass; Mr. Brady 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 236

Extends firefighting rights and duties to females.

Mr. Banner made the motion to Indefinitely Postpone AB 236;
Mr. Fielding seconded the motion. The motion lost on the
following vote:

Aye - Fielding, Brady, Hayes, Polish, Banner - 5

Nay - Prengaman, Coulter, Sena, Stewart, Horn - 5

Not Voting - Malone - 1

ASSEMBLY BILL 255

Provides for interest on judgments from accrual of
cause of action and increase rate.

Mr. Stewart made the motion to Adopt Amendments to AB 255 which
would read as follows: insert "from time of filing of complaint".
Mr. Malone seconded the motion. The Committee unanimously
approved the motion.

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

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

Nay - Brady - 1

ASSEMBLY BILL 237

Requires interest on judgements from time cause of
action accrues.

Mr. Sena made the motion to Indefinitely Postpone AB 237; Mr.
Banner seconded the motion. The Committee unanimously approved
the motion.

ASSEMBLY JOINT RESOLUTION 1 OF THE 59TH SESSION

Proposes to remove requirement that county clerk be
ex officio clerk of court.

Mr. Banner made the motion to Indefinitely Postpone AJR 1;
Mr. Fielding seconded the motion. The motion failed on the
following vote:

Aye - Banner, Fielding, Polish - 3

Nay - Hayes, Stewart, Brady, Coulter, Horn, Malone,
Prengaman, Sena - 8

Mr. Prengaman made the motion Do Pass AJR 1; Mr. Sena seconded
the motion. The Committee approved the motion on the following
vote:

Aye - Stewart, Brady, Coulter, Horn, Prengaman, Sena - 6

Nay - Banner, Fielding, Polish - 3

Not Voting - Hayes, Malone - 2

ASSEMBLY BILL 251

Revises provisions on compensation to victims of crimes.

Chairman Hayes stated that AB 251 would be held for further
information.

ASSEMBLY BILL 262

Removes distinctions based on sex from NRS 115.040,
115.050 and 115.070.

Mr. Banner made the motion Do Pass AB 262; Mr. Coulter seconded
the motion. The Committee unanimously approved the motion.

ASSEMBLY BILL 278

Provides for the adoption of an illegitimate child
by his father by public acknowledgement.

Mr. Stewart made the motion to Indefinitely Postpone AB 278;
Mr. Polish seconded the motion. The Committee unanimously
approved the motion.

ASSEMBLY BILL 306

Makes various changes in law respecting state-owned rights-of-way.

Mr. Banner made the motion to Indefinitely Postpone AB 306; Mr. Horn seconded the motion. The Committee unanimously approved the motion.

ASSEMBLY BILL 313

Authorizes coroner who performs autopsy to retain body tissues and fluids under certain circumstances.

Mr. Horn made the motion Do Pass As Amended; Mr. Malone seconded the motion. As there was discussion on this bill and Mr. Brady requested more time to work on it, Mr. Horn withdrew his motion.

ASSEMBLY BILL 364

Creates division for protection of utility customers in office of attorney general and defines its duties.

Mr. Prengaman made the motion to Adopt Amendments to AB 364; Mr. Stewart seconded the motion. The Committee unanimously approved the motion.

Mr. Prengaman made the motion Do Pass as Amended and Re-refer to Ways and Means; Mr. Polish seconded the motion. The Committee approved the motion on the following vote:

Aye - Stewart, Banner, Coulter, Horn, Malone, Polish,
Prengaman - 7

Nay - Hayes, Brady, Fielding - 3

Absent - Sena - 1

ASSEMBLY BILL 314 - Specifies period within which actions for taking private property without compensation must be brought.

ASSEMBLY BILL 338 - Limits privilege of husband or wife to prevent testimony of other to testimony regarding events occurring after marriage.

ASSEMBLY BILL 456 - Increases threshold of amount required for felony in crimes against property.

Mr. Steve McMorris, Douglas County District Attorney, requested time to redraft these bills so they would be more palatable. Mr. McMorris requested these three bills be held at this time.

ASSEMBLY BILL 336

Limits requirement for separate penalty hearings in murder trials.

Steve McMorris requested the Committee hold this bill for further discussion.

ASSEMBLY BILL 337

Clarifies power of court without jury to establish degree of murder.

Mr. Brady made the motion to Indefinitely Postpone AB 337; Mr. Malone seconded the motion. The Committee unanimously approved the motion.

ASSEMBLY BILL 376

Excludes violent crimes from jurisdiction of juvenile courts.

Mr. Polish made the motion to Indefinitely Postpone AB 376; Mr. Banner seconded the motion. The Committee unanimously approved the motion.

ASSEMBLY BILL 461

Provides for determining for certain purposes terms of imprisonment of prisoners serving multiple sentences.

Mr. Malone stated that he had a few problems understanding this bill; he felt the prisoner would now have more parole time and this would mean more state supervision. Chairman Hayes requested that Bud Campos with the Department of Prisoners speak to the Committee on this.

ASSEMBLY BILL 512

Includes willful and malicious burning of natural and cultivated flora in crime of third degree arson and redefines certain other related offenses.

Mr. Prengaman made the motion Do Pass as Amended; Mr. Stewart seconded the motion. The Committee unanimously approved the motion.

Chairman Hayes adjourned the meeting at 10:45 a.m.

Respectfully submitted,

Sharon L. Day

Sharon L. Day
Secretary

(Committee Minutes)

579



3-19-79

psychological consultants
35 1/2 keystone ave / reno, nevada 89503
telephone (702) 786-1377 / 329-1800

Ms. Karen Hayes, Assemblywoman
Chairperson
Judiciary Committee
Legislative Bldg.
Carson City, Nevada 89710

Dear Ms. Hayes:

It is my understanding that bill AB186 proposes to limit the use of power NRS458 to only the district court. I believe the passage of this bill will be detrimental to the future of substance abusers in this state.

I support the amendment to the bill which stipulates that both Justice and Municipal courts can refer clients to substance abuse programs under the NRS458 rule..

I have worked with many substance abuse clients over the past few years and many have benefited. One reason they have benefited is because they had to attend my substance abuse group programs for long periods of time on a weekly basis, and just as important, they had to pay the fee out of their own pocket. Substance abuse is not a problem one can "fine away." Value systems must be challenged and changed-this takes time. Since there is little money available from the state to pay for this therapy service, it is not wise, in my judgement, to limit the municipal courts' power in referring substance abusers to programs which deliver sound services which the abuser must pay for himself.

My son was killed by a drunk driver four weeks ago. I have a powerful investment in doing effective therapy with substance abuse people who are referred to me because of DUI violations. If bill AB186 passes without the amendment, I will be kept from helping substance abuse users. This would be unfortunate since I am experienced in this area and currently have over 60 clients referred to me by the municipal court judges. All of these clients pay their own way. Each is motivated and proves his/her motivation by paying and attending.

Sincerely,


Ron Carducci Ph.D.

RC/tr

EXHIBIT A

ron carducci ph.d./Jim Eddy ph.d./psychological consultants

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March 26, 1979

Subject: A. E. 228
Episcopal Church Governance

To: Assembly Judiciary Committee
Assemblywoman Mrs. Hayes

From: St. Peter's Episcopal Church
Member Diocesan Canon Law Committee

Reference is made to AB 228 and to NRS 82.310 regarding governance of the Episcopal Church in Nevada.

It is recommended that NRS 82.310 be repealed rather than amended through AB 228 for the following reasons:

- # 1. There is a possibility that this statute, if challenged on First Amendment grounds, might be declared unconstitutional.
- # 2. The state, on general philosophy concerning church-state separation, should not be passing laws regarding the internal operations of any church, so long as those operations do not violate criminal law or general statutes for all non-profit organizations.
- # 3. Enforcement, policing, of such laws would use funds, time, staff, that could be better spent elsewhere.
- # 4. Laws regarding the Episcopal Church specifically and solely are discriminatory. It does not matter whether they work in favor of or against that church; they discriminate. It is not the business of the state to legislate such a single organization. The only statutes necessary are general statutes that cover legal organization, legal incorporations, or non-profit and "religious" corporations.

Warrens

Rector

Clark

EXHIBIT B

PERSONAL DEVELOPMENT CONSULTANTS
329 Flint Street
Reno, Nevada 89501
329-4582

March 20, 1979

Ms. Karen W. Hayes
Chairperson
Assembly Judiciary Committee
Nevada State Assembly
Legislative Building
Carson City, Nevada 89710

Dear Chairperson Hayes:

We at Personal Development Consultants wish to express our support of the Assembly Bill 186 ammendment permitting Municipal and Justice Courts to participate in NRS 458. Our firm of professionally certified counselors has extensive experience in working with substance abusers, and we have found those clients referred to us via the Municipal and Justice Courts' use of NRS 458 generally have far more than superficial substance abuse problems. Consequently, they are typically inappropriate for DUI School, whose orientation is not therapeutic although perhaps useful for some DUI offenders who do not have abuse problems. Although we have not yet compiled complete data, it is our observation that counseling has helped the large majority of DUI clients, many of whom received their last DUI after they completed DUI School, reduce or cease (current status) their abuse patterns.

Should you desire further information, please feel free to contact any of us:

Michael V. Fromhart, Ph.D.
Nevada Certified Psychologist
Nevada Certified Marriage & Family Counselor

Thomas G. Avery, M.A.
Nevada Certified Substance Abuse Counselor
Nevada Certified Marriage & Family Counselor

Lorraine A. Everett, M.S.W.
Nevada Certified Marriage & Family Counselor

Charles T. Holt, M.A., M.A.
Nevada Certified Substance Abuse Counselor
Nevada Certified Substance Abuse Program Administrator
Nevada Board Approved Marriage & Family Counselor Intern

Sincerely,

Charles T. Holt

Charles T. Holt

jth/cth

EXHIBIT C