

Date: April 4, 1979

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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 Ahlswede	Clark County Public Defender
Melvin Close	Senator
Mike de la Torre	Crime Commission
Larry Ketzenberger	Las Vegas Metro Police Department
Mike Malloy	Washoe County District Attorney's Office
Sherman Simmons	
Sam Wardle	Trial Lawyers Association

Chairman Hayes called the meeting to order at 7:05 a.m.

ASSEMBLY BILL 571

Repeals prohibition against televising, broadcasting or filming court proceedings.

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

Aye - Hayes, Stewart, Brady, Coulter, Fielding, Malone,  
Polish, Prengaman, Sena - 9.  
Nay - Banner - 1.  
Absent - Horn - 1.

ASSEMBLY BILL 141

Prohibits advertisement of prostitution where its practice is unlawful.

Mr. Stewart said that the amendment prepared for this bill would provide that there could be no advertising of the address of a house of prostitution or of the directions to a house of prostitution.

Mr. Horn moved to Amend, and Do Pass A.B. 141 As Amended; Mr. Brady 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 142

Creates crime of using minor in preparing pornography.

Mr. Stewart said that the proposed amendment to this bill added some activities that were not entirely covered in the original language of the bill.

Mr. Horn moved to Amend, and Do Pass A.B. 142 As Amended; Mr. Fielding seconded the motion. The Committee unanimously approved the motion.

ASSEMBLY BILL 143

Revises test for obscenity and provides civil remedies.

Mr. Stewart said that a proposed amendment to this bill would remove the exemptions regarding pornographic materials for medical clinics and hospitals. He said the bill would further be amended so that a temporary restraining order could not be issued against a person suspected of indulging in the sale of pornography, rather a preliminary injunction could be obtained. A new section would be added to the bill that would say that local entities could further regulate this type of activity through ordinances. He said that in the present Section 9 of the bill, the definition of "obscenity" was rearranged.

Mr. Coulter asked if it was okay to have a standard for obscenity and then say that libraries were exempted from this standard. Mr. Stewart answered that there had been precedence in courts for this type of exemption.

Mr. Brady moved to Amend, and Do Pass A.B. 143 As Amended; Mr. Fielding seconded the motion. The Committee unanimously approved the motion.

ASSEMBLY BILL 346

Requires establishment of program for training and employment of most offenders in state prison.

Mr. Sena questioned the amount of the fiscal note on the bill. Mr. Stewart stated that the prison system had felt there would not be a need for a fiscal note on this bill if

they were allowed to enter into this type of program slowly. He said also that there were proposed amendments to this bill.

On Line 39 of Page 2, Mr. Stewart said the amendment would add family support and provide for restitution as possible uses of the money earned by the prisoners. He noted also that the warden had suggested the creation of a revolving fund to accumulate funds collected in savings by the prisoners.

Mr. Sena moved to Amend, and Do Pass A.B. 346 As Amended; Mr. Brady seconded the motion. The Committee unanimously approved the motion.

ASSEMBLY BILL 479

Provides injunctive relief in certain situations of domestic violence.

ASSEMBLY BILL 480

Provides penalty for battery against adult member of defendant's household.

ASSEMBLY BILL 481

Requires reporting of apparent incidents of domestic violence.

Mr. Horn said that the subcommittee for these bills consisting of himself, Mr. Banner, and Mr. Prengaman did not agree on a recommendation. He said that he and Mr. Banner would propose the following amendments:

A.B. 479 - Page 2: Delete Lines 14 and 15.

A.B. 480 - Page 1, Line 18: Strike the word, "gross".

A.B. 481 - Page 1, Line 9: Delete "or to the nearest police department or sheriff's office".

Page 2: Delete Section 7 of the bill.

Chairman Hayes said she felt that A.B. 479 was the most important of the three bills. She said there needed to be a criminal penalty for situations of domestic violence because at the present time, the police do not want to get involved in these situations because there is nothing they can do unless one of the parties presses charges.

Mr. Coulter moved to Do Pass A.B. 479; Mr. Prengaman seconded the motion. The Committee unanimously approved the motion.

On A.B. 480, Mr. Horn said that it was felt that a gross misdemeanor was too strong in this instance.

Mr. Sena moved to Amend, and Do Pass A.B. 480 As Amended; Mr. Horn seconded the motion.

Mr. Stewart said that if the change was adopted as recommended by the subcommittee, the penalty in the law would still be a misdemeanor. He said that a police officer would probably not arrest someone on a misdemeanor charge where he probably would make the arrest on a gross misdemeanor. He asked that the laws of others states be considered before the Committee made its decision.

Mr. Sena withdrew the motion.

Mr. Horn said that the proposed amendments to A.B. 481 would make the bill a data-gathering instrument. He said he felt the purpose of the bill was to gain some statistics on domestic violence.

Mr. Prengaman requested that the Committee hold the bill at this time.

#### SENATE BILL 154

Limits permissible delay between arrest, arraignment and filing of criminal complaint.

Mr. Wardle said that the consensus at the Senate hearing on this bill was that the amended bill with a provision of 72 hours for filing of the complaint rather than 24 hours as in the original bill would be fair. He said this type of law would let a person know how soon he should be brought before a magistrate after he was arrested. He said that the only onus of this would be if a District Attorney was put in the position of explaining why a prisoner had not been brought for a preliminary hearing on time.

Mr. Ahlswede said he would echo Mr. Wardle's remarks.

Mr. Malloy said that the Washoe County District Attorney's Office would be able to live with this bill without any problem. He said that if a hearing could not be held within 72 hours, as provided in this bill, a person would have to be released, but that release would not be a dismissal of the charges once a complaint was prepared.

#### SENATE BILL 192

Prohibits plea bargains or probation where deadly weapon is used.

Mr. Simmons stated that the bill simply provided that if a deadly weapon is used in a crime, the offender would go to prison. He related that Florida had enacted a similar provision in 1975. He said there was a drop in reported robberies of 22% from 1975 to 1976 after their law was enacted. He

said, however, that their law was not effective until there was established an educational system whereby posters were distributed emphasizing the fact that crimes committed with the use of deadly weapons carried mandatory sentences.

Mr. de la Torre related statistics of how the criminal justice system in Nevada has grown in comparison to population growth. He showed some of the posters that would be distributed as an educational process in Nevada.

Mr. Malloy said that it appeared that this bill only added robbery to the list of crimes that would not be probatable.

Mr. Ketzenberger said that the law enforcement community had supported passage of the bill. He noted, too, that contrary to the way the summary of the bill reads, that plea bargains had been taken out of the bill.

SENATE BILL 290

Authorizes additional means of proving service in probate proceedings.

Mr. Stewart said that this bill was in regard to the manner of serving papers for probate matters. He said the bill would allow use of the Nevada Rules of Civil Procedure in addition to the rules in the Probate Code for serving these papers. He said the bill seemed to be worthy.

SENATE BILL 192

Mr. Sena moved to Do Pass S.B. 192; Mr. Polish seconded the motion. The Committee unanimously approved the motion.

The Committee was in recess at 8:53 a.m. and reconvened at 9:13 a.m.

SENATE BILL 290

Senator Close said that the Probate Code did not allow serving of papers by actually handing the document to someone. He said that the Nevada Rules of Civil Procedure provide ways of getting notices to people that are the easiest possible.

SENATE BILL 291

Authorizes award of deficiency judgment directly to beneficiary of deed of trust.

Senator Close said that there are three people involved with a deed of trust: the beneficiary, the trustee, and the trustor. He said that when a suit must be filed regarding a deed of trust, it has to be filed by the trustee, which would be a title company. He said that those that really have the interest in the deed of trust would be the beneficiary and

the trustor. He said that this bill would allow the beneficiary of a deed of trust to bring a foreclosure action in his own name.

ASSEMBLY BILL 459

Authorizes arresting officer to release under certain circumstances person arrested without warrant.

Mr. Stewart said that there had been a suggested amendment to this bill on Page 2, Line 3 adding "thereafter such arrest shall not be deemed an arrest, but a detention only."

Mr. Sena moved to Amend, and Do Pass A.B. 459 As Amended; Mr. Banner seconded the motion. The Committee approved the motion on the following vote:

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

ASSEMBLY BILL 461

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

Mr. Horn said that he was against this particular bill because it added up to less time for prisoners rather than more time.

ASSEMBLY BILL 463

Adds certain inmates of institutions to eligible persons for whom public guardian may be appointed.

Mr. Stewart moved to indefinitely postpone; Mr. Malone seconded the motion. The Committee approved the motion on the following vote:

Aye - Hayes, Stewart, Brady, Coulter, Fielding, Malone,  
Polish, Prengaman - 8.  
Nay - Banner, Horn, Sena - 3.

ASSEMBLY BILL 466

Removes distinctions based on sex from requirements to serve on posse.

Mr. Sena moved to indefinitely postpone A.B. 466; Mr. Brady seconded the motion. The Committee approved the motion on the following vote:

Aye - Banner, Brady, Fielding, Horn, Malone, Polish,  
Sena - 7.  
Nay - Hayes, Stewart, Coulter, Prengaman - 4.

ASSEMBLY BILL 488

Increases penalties for assault with deadly weapon  
and battery upon a police officer or firefighter.

Chairman Hayes stated that she had problems with the inclu-  
sion of peace officers in this statute.

Mr. Horn moved to indefinitely postpone; Mr. Sena seconded  
the motion. In a voice vote, the motion was unanimously  
defeated.

ASSEMBLY JOINT RESOLUTION 6

Proposes to amend Nevada constitution to confer  
right upon private citizens to keep and bear arms.

Mr. Malone said that he had distributed New Mexico's statute  
on the right to bear arms. He said that the subcommittee on  
this resolution had found that adoption of the resolution  
would nullify as many as ten statutes regarding gun control.  
He said that New Mexico's language had been reworked so that  
it would be workable with police departments as far as issu-  
ing concealed weapon permits. He said that the sponsor of  
the resolution agreed with the amendment, and that the Las  
Vegas Metropolitan Police Department had expressed their  
agreement also.

Mr. Malone moved to Amend, and Do Pass A.J.R. 6 As Amended;  
Mr. Sena 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 - None.  
Not Voting - Stewart - 1.

ASSEMBLY BILL 228

Removes distinctions based on sex from NRS 82.310.

Mr. Stewart moved to indefinitely postpone, and take this  
item up next session after the litigation (regarding the  
Protestant Episcopal Church) is over; Mr. Malone seconded  
the motion. The Committee approved the motion on the follow-  
ing vote:

Aye - Hayes, Stewart, Coulter, Horn, Malone, Polish,  
Prengaman, Sena - 8.  
Nay - None.  
Not Voting - Brady, Fielding - 2.  
Absent - Banner - 1 (Committee Minutes)

ASSEMBLY BILL 314

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

Mr. Horn moved to indefinitely postpone; Mr. Prengaman seconded the motion. The Committee approved the motion on the following vote:

Aye - Hayes, Brady, Coulter, Fielding, Horn, Malone,  
Polish, Prengaman - 8.  
Nay - Stewart, Sena - 2.  
Absent - Banner - 1.

SENATE BILL 154

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

Aye - Hayes, Stewart, Brady, Coulter, Fielding, Horn,  
Malone, Polish, Prengaman, Sena - 10.  
Nay - None.  
Absent - Banner - 1.

ASSEMBLY BILL 456

Increases threshold of amount required for felony in crimes against property.

Mr. Malone said that the Las Vegas Downtown Association and the Las Vegas Metropolitan Police Department opposed this bill. He said that the District Attorneys Association was not that emphatically supporting the bill.

Chairman Hayes said that she had received word from members of the Las Vegas Chamber of Commerce that the word being received from the representative of the Nevada Retail Association was not necessarily the feeling of all of the merchants. She said that she felt that justice would be better served by the passage of this bill because presently actions were not being taken in district court.

Mr. Malone moved to indefinitely postpone. There was no second to the motion.

Mr. Horn moved Do Pass. There was no second to the motion.

Mr. Stewart related the values which are used by surrounding states in determining what crimes should be felonies. He suggesting using a figure of \$200 of fair market value and say this would be a felony on the third conviction.



Mr. Malone asked if criminals should be given the benefit of inflationary amounts. Chairman Hayes answered that with the present amounts in the law, prosecutors are not pursuing these cases.

Mr. Malone moved to indefinitely postpone; Mr. Brady seconded the motion. On a voice vote, Chairman Hayes declared the motion lost.

Mr. Stewart moved to amend the bill to \$200 instead of \$250, and add fair market value, and that upon the second conviction within a five-year period, it becomes a felony; Mr. Horn seconded the motion.

Mr. Sena moved to adjourn; Mr. Brady seconded the motion.

Mr. Stewart withdrew his motion.

ASSEMBLY BILL 389

Provides penalty for stopping payment on a check under certain circumstances.

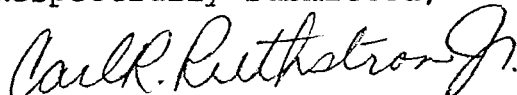
Mr. Horn said that this bill needed to be amended to take out services.

Mr. Horn moved to Amend, and Do Pass A.B. 389 As Amended; Mr. Sena seconded the motion. The Committee approved the motion on the following vote:

Aye - Hayes, Banner, Brady, Coulter, Fielding, Horn,  
Polish, Prengaman, Sena - 9.  
Nay - Stewart, Malone - 2.

Chairman Hayes adjourned the meeting at 10:18 a.m.

Respectfully submitted,



Carl R. Ruthstrom, Jr.  
Secretary