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	Deputy Public Defender, Clark County
Virgil Anderson	AAA
Thomas D. Beatty	Attorney
Richard Garrod	Farmers Insurance Group
Virgil Getto	Assemblyman
Morgan Harris	Clark County Public Defender
William Hernstadt	Senator
Larry Ketzenberger	Las Vegas Metro Police Department
Mike Malloy	Washoe County District Attorney's Office
J. P. Reynolds	Surety companies in Nevada
Robert Robinson	Assemblyman
Judge Charles Thompson	Eighth Judicial District
Curtis W. Tuck	Fallon Bail Bond; Lahontan Valley News
Stan Warren	Nevada Bell

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

SENATE BILL 4

Summary - Prohibits bail bondsmen from making campaign contributions for or against election of candidates for certain public offices.

Title - An Act relating to bail; shortening the time between notice of failure to appear and forfeiture; clarifying and strengthening procedures and grounds for exoneration of sureties; enumerating grounds and requiring a hearing before setting aside or remitting a forfeiture; and providing other matters properly relating thereto.

Senator Hernstadt said that this bill was originally written to prohibit campaign contributions from bail bondsmen to

candidates for certain public offices. He said that the Senate Commerce and Labor Committee had considered the bill and felt that the abuse was not in campaign contributions; rather the abuses involved exonerations of bail. He said he would urge support of the bill although it was totally different than how it was introduced.

Mr. Malloy expressed his support of the bill, and he said there had been no opposition in the Senate Commerce and Labor Committee hearing.

Mr. Reynolds said that this bill had not been opposed by himself or others involved in the bail bond industry because they were not aware of the changes that had been made. He said he was not opposed to the concept of this bill, but he said that the bill, as written, would have an incredibly detrimental effect on the bail bond industry. He said that the bill limits judicial discretion in bail bond matters, and he said this would seem to be an insult to the Judiciary.

Mr. Reynolds said that a relative of someone who had to post bail and who had posted the collateral for the bail could find themselves in a position of forfeiting this collateral in the case the person for whom bail was written skips the town. He said that if this bill was passed, the court would not be able to exonerate the bail so that the person owning the collateral would not lose his property due to another's actions. He said that the victim in this case would not be the State of Nevada or the bond company.

Mr. Reynolds said that bail bond companies would have a strict liability imposed upon them. He said that companies would require stronger collateral. He said the companies could much easier afford lower volume business than they could afford large forfeitures. He said that the overall effect of this bill would be that fewer people would be free on bail than are presently able to qualify.

Mr. Horn asked if a system of lower bail and no bonds would solve a lot of the problems regarding bail bonds. Mr. Reynolds answered that he had a study prepared by the Department of Justice regarding no bail. He said that in Nevada, he did not believe this would solve any problems, and the cost impact would be great. He said that the only place this type of system has been successful has been in the Federal courts.

SENATE BILL 129

Eliminates appeals from the granting or denial of writs of habeas corpus.

Judge Thompson said that this bill is designed to preclude intermediate appeals to the Supreme Court from pretrial denials of petitions for writs of habeas corpus. He said this bill referred to issues that were being raised before

trial and could be raised in the event the defendant goes to trial. He said the question was whether or not the defendant had the right to delay his trial while he appealed his case to the Supreme Court. He said this bill would preclude that right.

Judge Thompson said that those opposing this bill claim that the present system is adequate to protect the rights of the defendant. He said these individuals claim that this pretrial appeal to the Supreme Court is a right. He stated, however, that this was not a right, and he further stated that most states do not allow such an appeal.

Judge Thompson said that about 349 cases in Clark County last year were subject to the delay caused by this type of appeal. He said that the bottom line in this consideration was the words "delay" and "money".

Mr. Malloy said he enthusiastically supported the bill. He said that the writs addressed by this bill were the single best tactic that a defense lawyer has for delaying. He said that defense attorneys know that delays are beneficial for their clients' causes.

Mr. Malloy said that defense attorneys will say that their clients are interested in speedy trials. He said further that private attorneys had told him that when they are being paid from public funds to represent an individual, they will file a motion for a writ of habeas corpus just to get more money from the court upon explaining what they have done to represent an individual. He said that attorneys have further told him that even when there is no chance of getting a writ of habeas corpus they would file this appeal just to cover themselves from a legal malpractice situation.

Mr. Beatty said that he had worked on both sides of this situation and felt he could offer the Committee a little different perspective on the problem. In regard to most other states not allowing this type of appeal, he said that these states did, however, offer other remedies that would be comparable. He said that this bill would not only cover pretrial appeals of probable cause writs, but it would cover each type of habeas corpus writ that could be filed.

Mr. Beatty said that if there are abuses of delays, the courts should be dealing with the attorneys that do this. He said that just because a motion for a writ of habeas corpus has been filed, it would not necessarily mean that the trial date would change.

Referring to figures offered by Judge Thompson, Mr. Beatty asked if due to the fact that only 4% of these appeals succeeded, would the right to make this appeal be restricted to all. He further asked if most of the time judges were right, did that mean they were not subject to review. He then asked

if due to the fact that most defendants might be found guilty, would that mean that there should be no trials.

Mr. Beatty said he thought that some attorneys would use this as a delaying tactic, but not all attorneys would. He said that the faster a defendant is brought to trial, the more government is involved in the judicial process.

Mr. Ahlswede said he would concur with the remarks made by Mr. Beatty.

Mr. Harris said that delays could be discussed, but the petition for a writ for habeas corpus could still be filed after the trial has begun. He said that in regard to costs, it would be much better to have this type of petition submitted before a trial than after a trial.

Mr. Ketzenberger said he felt that lawyers filed for motions causing delays because of profit motivations. He said that some defendants have, because of the extra time allowed by these types of motions, gone out and stolen the money needed to pay the attorney's fees.

SENATE BILL 103

Requires bail to continue through different proceedings on same charge.

Judge Thompson said this bill was designed to correct what has long been a problem in situations where a defendant posted bail in justice court and was released, and then a new bail would be set at the district court level. The defendant would find himself bearing the cost of the two bonds.

Judge Thompson said that the thought was that the bond should be transferred from the justice court to the district court. He said that in some cases, the bond had been informally transferred. He said the bill had been amended in the Senate to allow exoneration of the bail bond within 30 days after receiving such a request from a defendant. He said he was afraid that bail bondsmen will initially have the defendants sign such a request without really knowing what they would be doing.

Mr. Beatty said there should be one bond for one crime. He said that just because the court was changed did not mean that the bond could not run through the whole case.

Mr. Reynolds said that this bill addresses a problem and solves the problem that has been noticed by the surety companies. He noted a further problem in cases where a jailer might write the wrong court on records and then necessitate a change in where the bond is effective.

ASSEMBLY BILL 613

Permits publication of name of juvenile charged with second or subsequent offense.

ASSEMBLY BILL 614

Permits publication of name of juvenile charged with offense which would be felony if committed by adult.

Assemblyman Robinson, primary sponsor of A.B. 614, quoted from an article by Paul Price in a Las Vegas newspaper saying that a youngster's classmates usually know his deeds from the moment of commission. Because of this, he felt that the argument that a child would be embarrassed because his peers knew of his actions would be invalid.

Dr. Robinson said that Section 1, Subsection 4 of the bill contained the main change. He said that the felony offense would make it where a child's name "may" be released. He said he thought it was important to make this the perogative of the system. He said a youngster took his chances by committing the felony, and he said he did not see why society has to try to protect him.

Mr. Malloy said he would support either of the bills. He said a juvenile is not really found guilty; rather he is found delinquent. He said there seemed to be a psychological thing about treating children the same as adults. He said that when a 14-, 15-, or 16-year old learns he is treated differently because of his age, he begins to feel that it doesn't matter what he does because of the different treatment. He said he believed in the freedom of a responsible press, and he said he did not think newspapers would publish names of every juvenile who fell into these categories.

Mr. Banner asked for consideration for a juvenile's family. He said that the juvenile's neighbors also probably know about the offense. He asked further what the effect would be on other children in a family knowing that their brother or sister's name had been published. He said that the damage to a family would more than offset any good that it may do.

Chairman Hayes, primary sponsor of A.B. 613, said this type of bill could "add fuel to the fire" because some juveniles simply like to see their names in print.

ASSEMBLY BILL 605

Eliminates monetary limit to liability of parents or guardians for willful certain misconduct of minor.

Chairman Hayes said that in 1975, the Legislature increased parental liability for acts of their children from $?50 to

$3,000. She said that this bill, of which she is the primary sponsor, would take off the limit. She said that in 1975, there was testimony that this type of law would be a burden on the parents. However, she said she felt that if a child steals or damages her own property or anyone else's property, someone should be responsible for that child.

Mr. Anderson said that the insurance industry could be concerned with this type of legislation because of the socializing losses. He said there would always be vandalism by children no matter how hard the parents try to control it. He said that if his home was burglarized, insurance would pay for his losses and then try to collect from the parents of the juvenile or their insurance company. He said there could be a situation, because of rights of subrogation, where the insurance industry would be put in a position of enforcing the penalties the bill attempts to impose.

Mr. Garrod said he had consulted with the insurance division of his company who said that the company would cover the acts committed by a minor whose parents were insured. He then related a specific incident where the minor of one of Farmers' insureds had set a $120,000 house on fire. The house was totally destroyed. The parents of the minor had $10,000 insurance, which was paid, but he said this now left that family with the burden of paying the remaining $110,000 to the homeowner's insurance company. He said that this would, therefore, concern him to see no limit to this type of situation.

The Committee was in recess at 10:22 a.m. and reconvened at 10:33 a.m.

SENATE BILL 129

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

Aye - Hayes, Brady, Fielding, Malone, Polish, Prengaman, Sena - 7.
Nay - Stewart, Coulter, Horn - 3.
Absent - Banner - 1.

SENATE BILL 4

Mr. Horn moved to indefinitely postpone S.B. 4; Mr. Fielding seconded the motion. The motion lost on the following vote:

Aye - Stewart, Brady, Fielding, Horn, Malone - 5.
Nay - Hayes, Coulter, Polish, Prengaman, Sena - 5.
Absent - Banner - 1.

ASSEMBLY BILL 605

Mr. Sena moved to indefinitely postpone A.B. 605; Mr. Fielding seconded the motion.

Mr. Stewart moved to amend the motion to raise the limit (of parental liability) from $3,000 to $5,000; Mr. Horn seconded the motion. The Committee approved Mr. Stewart's motion on the following vote:

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

Mr. Horn moved to Do Pass A.B. 605, as amended; Mr. Malone seconded the motion. The Committee approved the motion on the following vote:

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

ASSEMBLY BILL 526

Permits substitution of police judge for justice of peace in certain circumstances.

Assemblyman Getto, sponsor of this bill, said that since it seemed that Washoe and Clark Counties had problems with the bill, he had an amendment that would put a population exemption in it.

Mr. Fielding moved to Amend, and Do Pass A.B. 526 As Amended; Mr. Malone 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.

Chairman Hayes adjourned the meeting at 10:49 a.m.

Respectfully submitted,

Carl R. Ruthstrom Jr.

Carl R. Ruthstrom, Jr.
Secretary