

Joint Meeting

Minutes of the Nevada State Legislature

Assembly Committee on JUDICIARY

Date: May 11, 1979

Page: 1

Members Present:

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

Members Absent:

Mr. Banner
Mr. Coulter
Mr. Polish

Guests Present:

Bruce A. Aguilera	Caesar's World
Gary Armentrout	Harrah's
Shannon Bybee	Golden Nugget
Robbins Cahill	Nevada Resort Association
Phil Pro	Deputy Attorney General, Gaming Control Board
Roger Trounday	Gaming Control Board

The meeting was called to order at 8:10 a.m. as a joint session with the Senate Judiciary Committee. All Senate members were present including Senator Close, Senator Hernstadt, Senator Don Ashworth, Senator Dodge, Senator Ford, Senator Raggio, and Senator Sloan.

SENATE BILL 131

Increases penalties for violation of certain gaming laws.

Mr. Trounday said that there was an amendment proposed to this bill as a result of a recent court case. Two amendments were submitted to the Committees (Exhibit A and Exhibit B). The amendments would hopefully close the loophole that was ruled to exist (Also Exhibit C is attached as Amendment No. 1006).

Mr. Pro said that a number of items were seized from a gaming licensee in a case in Lovelock. Certain records were also seized. He said that Judge McDaniel, using NRS 463.140, deemed that the right to summarily seize property from the premises did not include the seizure of records. He said that the judge had not been advised of the regulatory provisions that do provide for inspection and copying of records. He stated that Amendment No. 1006 for S.B. 131 would add the word "records" to NRS 463.140, Subsection 3(c), so that the

right would be present to summarily seize and remove equipment, supplies, and records. He said that this seemed to be a reasonable approach to the Control Board, but he said there was concern in the industry of the possible loss of some original documents.

Because of this concern, Mr. Pro said the amendments (Exhibit A and Exhibit B) were submitted to the Committees. These amendments would allow the photocopying of the records. If photocopying machines were not available on the premises of the licensee, the records could be copied by a portable copier or seized for copying in the Gaming Control Board offices.

Mr. Bybee said that he had learned of this hearing the day before, and he said he had not had a chance to discuss the amendments with other licensees. He said, therefore, that he would oppose any change in legislation without time to fully examine and evaluate the consequences of the legislation.

Senator Raggio said that if records may be examined at the present time, he could not see why they could not also be copied. He said that the only problem he could see would be inconvenience.

Senator Hernstadt said that if a licensee does not want to agree to photocopying records, the records should be impounded.

Mr. Armentrout said that Harrah's and the Gaming Industry Association is opposed to any amendment authorizing any Gaming Control Board agent to come on the premises and take any document they feel like.

Mr. Aguilera said his position was the same as Mr. Armentrout's.

On Exhibit A, Section 3(e), Senator Close said that he could see some concern.

Mr. Bybee said there could be problems with the language in the proposed amendment because the licensee would be subject to an individual agent's decision. He noted that when the law regarding records was adopted, the Legislature had not made these provisions.

Senator Raggio suggested adding the following language: "If the applicant or licensee requests, he or his agent may accompany the Board's agent for the purpose of insuring that records are not lost."

Senator Don Ashworth said that a portable photocopier could always be brought on the premises of the licensee. He said he would oppose the removal of any records from the premises.

Mr. Pro said that it would appear that the Gaming Control Board would be satisfied with the amendment proposed in Exhibit B.

Mr. Cahill said he could not see any problem with the photocopying of records. He said the Nevada Resort Association would be opposed to the amendment proposed in Exhibit A.

The joint session recessed at 10:42 a.m.

The Assembly Judiciary Committee reconvened at 10:45 a.m.

SENATE BILL 27

Abolishes causes of action for seduction and criminal conversation.

Senator Close said that this was the "criminal seduction bill." He said he had spoken to Judge Thompson in Las Vegas about this bill. The judge said that he was contacted by an attorney who was very angry that the bill might be passed. The attorney had said that the present law was the best tool he had in wringing out settlements in divorce cases.

Senator Close said the present law is used for blackmail. He said attorneys use the law for purposes that are immoral and wrong, and he said there was no reason to retain these particular crimes in the law.

Mr. Stewart said that the seduction portion of the bill was not involved in divorce proceedings. Senator Close said that if the seduction portion of the bill was causing problems, it could be amended out.

SENATE BILL 438

Limits duration of and expands permitted reasons for temporary furloughs of prison inmates.

Senator Close said that in testimony before the Senate Judiciary Committee, Warden Wolff had said that the provisions of this bill provided one of the most effective methods they have in putting a person back into society after release from prison. He noted that A.B. 346, the prison industries bill, would let a person out of prison with no limitations. He said that if a prisoner will get out of prison in six months, this bill would provide a very effective means of rehabilitation. He said that there are presently all kinds of programs where prisoners can get out of prison for temporary periods.

Mr. Stewart said that prisoners have always been allowed to leave the prison for some reason. He said, however, that they have been under the supervision of prison employees. He said this bill would provide no supervision and would seem to be giving prisoners wide open opportunities to walk away.

Senator Close said that there are work programs at this time where the prisoners are not monitored when they are at their jobs. He suggested that this type of bill would help to keep more people from coming back into prison.

SENATE BILL 439

Provides specifically that living together is not matter of defense or mitigation to prosecution for assault or battery.

Senator Close said that the present law says that the fact individuals are living in the same household is not a mitigation of punishment for wife beating. He said this bill would provide that a judge can give an instruction to a jury that it is not an excuse for a person to beat his spouse just because they live together.

ASSEMBLY BILL 524

Limits dissemination of certain criminal records and provides for their examination and challenge.

Amendments to this bill were submitted to the Committee for their inspection and consideration. Also submitted to the Committee was a letter concerning this bill from Donald K. Wadsworth, Deputy District Attorney in Clark County (Exhibit D).

SENATE BILL 27

Mr. Stewart moved Do Pass with amending out the section regarding seduction; Mr. Brady seconded the motion. The Committee approved the motion on the following vote:

Aye - Hayes, Stewart, Brady, Fielding, Horn, Malone, Prengaman - 7.

Nay - None.

Absent - Banner, Coulter, Polish, Sena - 4.

The meeting was adjourned at 10:07 a.m.

Respectfully submitted,

Carl R. Ruthstrom Jr.
Carl R. Ruthstrom, Jr.
Secretary

Amend NRS 463.140 as follows:

1. No amendment.
2. No amendment.
3. The board and the commission and their agents may:
 - (a) Inspect and examine all premises wherein gaming is conducted or gambling devices or equipment are manufactured, sold or distributed.
 - (b) Inspect all equipment and supplies in, upon or about such premises.
 - (c) Summarily seize and remove from such premises and impound any equipment or supplies for the purpose of examination and inspection.
 - (d) Demand access to and inspect, examine , photocopy and audit all papers, books and records of applicants and licensees respecting the gross income produced by any gaming business, and require verification of income, and all other matters affecting the enforcement of the policy or any of the provisions of this chapter.
 - (e) In the event it is not practical to copy any item referred to above, the original item or items may be removed from the premises by the board or its agents upon the issuance of a receipt to the applicant or licensee describing the item or items removed. The applicant or licensee shall thereafter have access to inspect and copy the items removed upon reasonable notification to the board.
4. No amendment.
5. No amendment.

Amend NRS 463.140 as follows:

1. No amendment.
2. No amendment.
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 - (b) Inspect all equipment and supplies in, upon or about such premises.
 - (c) Summarily seize and remove from such premises and impound any equipment or supplies for the purpose of examination and inspection.
 - (d) Demand access to and inspect, examine, photocopy and audit all papers, books and records of applicants and licensees respecting the gross income produced by any gaming business, and require verification of income, and all other matters affecting the enforcement of the policy or any of the provisions of this chapter.
4. No amendment.
5. No amendment.

1979 REGULAR SESSION (60TH)

ASSEMBLY ACTION		SENATE ACTION		Assembly	AMENDMENT BLANK
Adopted	<input type="checkbox"/>	Adopted	<input type="checkbox"/>	AMENDMENTS to <u>Senate</u>	
Lost	<input type="checkbox"/>	Lost	<input type="checkbox"/>	Joint	
Date:		Date:		Bill No. <u>131</u>	Resolution No. _____
Initial:		Initial:		BDR <u>41-482</u>	
Concurred in	<input type="checkbox"/>	Concurred in	<input type="checkbox"/>	Proposed by <u>Committee on Judiciary</u>	
Not concurred in	<input type="checkbox"/>	Not concurred in	<input type="checkbox"/>		
Date:		Date:			
Initial:		Initial:			

Amendment N^o 1006



Amend the bill as a whole, by inserting a new section, to be designated as section 1, preceding section 1, to read as follows:

"Section 1. NRS 463.140 is hereby amended to read as follows:

463.140 1. The provisions of this chapter with respect to state gaming licenses and manufacturer's, seller's and distributor's licenses shall be administered by the state gaming control board and the Nevada gaming commission, which shall administer them for the protection of the public and in the public interest in accordance with the policy of this state.

2. The board shall investigate the qualifications of each applicant under this chapter before any license is issued or any registration, finding of suitability or approval of acts or transactions for which commission approval is required or permission is granted, and shall continue to observe the conduct of all licensees and other persons having a material involvement directly or indirectly with a licensed gaming operation or registered holding company to the end that

To: E & E
LCB File
Journal
Engrossment
Bill

Date 5-8-79 Drafted by FWD:sl

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Amendment No. 1006 to Senate Bill No. 131 (BDR 41-482) Page 2

licenses shall not be issued to nor held by nor shall there be any material involvement directly or indirectly with a licensed gaming operation or registered holding company by unqualified or disqualified persons, unsuitable persons or persons whose operations are conducted in an unsuitable manner or in unsuitable or prohibited places or locations. The board has full and absolute power and authority to recommend the denial of any application, the limitation, conditioning or restriction of any license, registration, finding of suitability or approval, the suspension or revocation of any license, registration, finding of suitability or approval or the imposition of a fine upon any person licensed, registered, found suitable or approved for any cause deemed reasonable by the board. The commission has full and absolute power and authority to deny any application or limit, condition, restrict, revoke or suspend any license, registration, finding of suitability or approval, or fine any person licensed, registered, found suitable or approved, for any cause deemed reasonable by the commission.

3. The board and the commission and their agents may:

(a) Inspect and examine all premises wherein gaming is conducted or gambling devices or equipment are manufactured, sold or distributed.

(b) Inspect all equipment and supplies in, upon or about such premises.

Amendment No. 1006 to Senate Bill No. 131 (BDR 41-482) Page 3

(c) Summarily seize and remove from such premises and impound any equipment , records or supplies for the purpose of examination and inspection.

(d) Demand access to and inspect, examine and audit all papers, books and records of applicants and licensees respecting the gross income produced by any gaming business, and require verification of income, and all other matters affecting the enforcement of the policy or any of the provisions of this chapter.

4. For the purpose of the administration and enforcement of chapters 463, 464 and 465 of NRS, and of chapter 205 of NRS so far as it involves crimes against the property of gaming licensees, the board, the commission and the executive, supervisory and investigative personnel of both the board and the commission have the powers of a peace officer of the State of Nevada.

5. The board and the commission or any member thereof shall each have full power and authority to issue subpoenas and compel the attendance of witnesses at any place within this state, to administer oaths and to require testimony under oath. Any process or notice may be served in the manner provided for service of process and notices in civil actions. The board or the commission may pay such transportation and other expenses of witnesses as it may deem reasonable and proper. Any person making false oath in any matter before either the board or commission is guilty of perjury.

Amendment No. 1006 to Senate Bill No. 131 (BDR 41-482) Page 4

The board and commission or any member thereof may appoint hearing-
ing examiners who may administer oaths and receive evidence and
testimony under oath."

Amend the bill as a whole by renumbering section 1 as section 1.5.

Amend section 1, page 1, line 1, by deleting "Section 1." and
inserting "Sec. 1.5."

Amend the title of the bill, line 2, by inserting after the
semicolon:

"adding certain powers of the board and commission with
respect to enforcement;"



Office of the District Attorney

CLARK COUNTY COURTHOUSE
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April 24, 1979

The Committee on Judiciary
Nevada State Assembly
Capitol Complex
Carson City, Nevada 89710

Attention: Assemblywoman Karen Hayes, Chairman

Re: AB 524--Privacy and Security

Dear Madam Chairman and Members of the Committee:

Pursuant to my recent testimony before your Committee on the above-stated matter, and pursuant to a request at the conclusion of said testimony that I reduce my comments and recommendations to writing for further consideration by the Committee, I respectfully submit the following comments and recommendations with regard to AB 524:

It is the understanding of this office that the State of Nevada has been granted an extension by the Federal Government up to and including July 1, 1979, to formulate and adopt a "State Plan" pursuant to the guidelines set forth in Title 28 of the Department of Justice Regulations. It is our further understanding that unless a satisfactory State Plan is so adopted that said regulations above stated provide for sanctions and penalties for non-compliance. It is also the understanding of this office that AB 524 is the result of a cumulative effort by a committee appointed by the Governor to formulate a "State Plan" as dictated by said Federal regulations.

As a matter of general policy, please be advised that the Office of the District Attorney of Clark County is strongly in favor of being permitted to disseminate criminal history information to other agencies and individuals as freely as possible within the Federal guidelines above mentioned.

This office has therefore reviewed AB 524 in conjunction with Title 28 of the Department of Justice regulations and if AB 524

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CHIEF INVESTIGATOR

KELLY W. ISOM
ADMINISTRATIVE OFFICER

were to be adopted by the Legislature as the Nevada "State Plan," it is our recommendation that the following corrections and/or amendments be made thereto, which changes, in our opinion, would not only serve to improve the present form of the Bill, but would likewise be in compliance with the Federal guidelines established in Title 28. Said recommendations are broken down into general recommendations and District Attorney related recommendations.

GENERAL RECOMMENDATIONS

1. A review of Section 9 of AB 524 commencing on page 2 thereof reveals that as presently drafted, said section is not in conformity with the Federal guidelines, and it is in fact much more restrictive. The Federal regulations as set forth in Section 20.21.(a)(2) is directed toward assuring that all dissemination of restricted criminal history record information is both accurate and complete. Prior to a dissemination, said Federal regulation in essence requires that the accuracy of such information be verified prior to such dissemination, and it further provides that to ensure that accuracy that the central state repository of criminal history records (or a comparable state agency) should be queried for that purpose prior to any dissemination.

Sec. 9 of AB 524 is obviously an effort to conform to that requirement. By misplacing what is now Section 9(1), however, said section takes on a completely different meaning than that promulgated by the Federal regulation. As indicated above, the problem lies with the construction of that section, rather than with the general content, and in order to make section 9 as presently drafted less restrictive and still be in compliance with the Federal guidelines, it is recommended that said Section 9 should be reconstructed and read substantially as follows:

Sec. 9. No Agency of Criminal Justice in Nevada may disseminate any recorded information which includes information about a felony or gross misdemeanor without first making inquiry of the Identification and Communications Division of the Department of Law Enforcement Assistance of the State of Nevada for the purpose of obtaining the most current and complete information available, unless one or more of the following circumstances exists:

1. The information is needed for a purpose in the administration of criminal justice for which time is essential, and the Identification and Communications Division of the Department of Law Enforcement Assistance is not able to respond within the required time;
2. The full information requested and to be disseminated relates to specific facts or incidents which are within the direct knowledge of an officer, agent or employee of the agency which disseminated the information;

3. The full information requested and to be disseminated was received as part of a summary of recorded information from the Identification and Communications Division of the Department of Law Enforcement Assistance within thirty days before the information is to be disseminated;
4. The statute, executive order, court rule or court order under which the information is to be disseminated refers only to information which is in the files of the agency which makes the dissemination; or
5. Information requested and to be disseminated is for the express purpose of research, evaluation for statistical activities to be based upon information maintained in the file or files of the agency or agencies for whom the information is sought.

The above Sec. 9 as amended now conforms to the Federal regulations and the same has been accomplished simply by incorporating former subsection (1) of the proposed draft of AB 524 into the main body of Section 9 and renumbering the remaining subsections.

2. Sec. 10 of AB 524 sets forth the parameters of permissible dissemination of criminal history record information within the State of Nevada. Therefore, it is also the recommendation of this office that Sec. 10(3) of AB 524 should be amended to include the language presently found in Section 20.21(b)(2) of Title 28, which language permits the dissemination of criminal history record information to

"individuals and agencies for any purpose authorized by statute, ordinance, executive order, or court rule, decision, or order as construed by appropriate State or local officials or agencies."

Our interpretation of the present draft of AB 524 is that it appears that section 10(3)(f) represents an effort to incorporate that particular Federal regulation into the "State Plan," but subsection (f), as presently constructed, is more restrictive and same does not specifically provide for dissemination pursuant to a Court Order as provided for by the Federal regulations. I see no reason why the State of Nevada should not have the same flexibility in this area as provided for by the said Federal regulations, and if AB 524 or a reasonable facsimile thereof is to be adopted as a Nevada "State Plan," I think it is essential that subsection (f) be amended to be as all inclusive as the Federal language. It is our understanding that other jurisdictions presently operating within the Federal guidelines have found this particular Federal provision allowing dissemination pursuant to Court Order both a desirable and necessary provision.

3. This office would further recommend that Sec. 10 of AB 524 be amended and expanded also to include the language contained in

section 20.21(b)(4) of Title 28 Federal regulations which provide that dissemination of criminal history record information may be made to

"individuals and agencies for the express purpose of research, devaluative, or statistical activities pursuant to an agreement with a criminal justice agency."

Dissemination of criminal record history information is permissible for this purpose under the Federal guidelines but again is not specifically provided for in Sec. 10 of the current draft of AB 524.

4. AB 524 in various sections therein refers to the Identification and Communications Division of the Department of Law Enforcement Assistance. Such reference is made in Sec. 9 of said Bill, Sec. 14, and is further mentioned in Sec. 20. It is only after a careful and overall review of AB 524 that it becomes apparent that the Identification and Communications Division of the Department of Law Enforcement Assistance is intended to be the Central State Agency or Central Repository for Nevada for the Keeping and Storing of Complete and Accurate Criminal History Record Information. Such a central repository is one of the recommendations of the Federal guidelines set forth in Title 28. Thus, it is our recommendation that a preliminary reference to this particular State agency should be incorporated in the first part of AB 524, wherein it sets forth various definitions. Such preliminary reference should define what said agency is and should explain its function and duties.

5. Additionally, it would be our general recommendation that the phrase "Recorded Information" be deleted throughout AB 524 and that the phrase "Criminal History Record Information" be substituted in its place. The phrase "Criminal History Record Information" is the phraseology utilized and set forth in the Federal regulations, and to the best of our information that is the phrase utilized by every other jurisdiction in the United States who is operating within the guidelines of Title 28. Since frequent contact with other criminal justice agencies in other jurisdictions will be necessary, it would seem reasonable and plausible that a uniform phrase having the same definition in all jurisdictions would be preferable.

SPECIFIC RECOMMENDATIONS--DISTRICT ATTORNEY RELATED

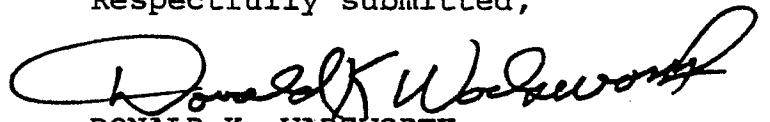
In addition to the foregoing suggested amendments to AB 524 which in our opinion would greatly enhance the workability of AB 524 and still be in compliance with Title 28, this office has reviewed AB 524 with specific reference to the needs and requirements of the Office of the District Attorney in carrying on its day to day operation. It was indicated in my testimony before the Committee this office deals on a daily and necessary basis with public defenders, defense attorneys and victims of crimes, as well as witnesses. In the federal regulations, i.e. Title 28, said individuals,

by definition, are not criminal justice agencies and dissemination of criminal history record information to such attorneys or crime victims is not specifically provided for under Title 28. It is noted that in AB 524, i.e. Sec. 10(3)(b), that dissemination is permitted to both the subject of the recorded information or his attorney of record. In our opinion, this provision is essential to meet our daily needs and it is our further opinion that this particular provision is generally authorized by Section 20.21(b)(2) of Title 28. This office, therefore, strongly recommends that the present provisions of Section 10(3)(b) of AB 524 be retained as presently set forth.

Another primary need of the Office of the District Attorney in conducting its day to day operation is the need to disseminate certain criminal history record information to victims of crimes. Sec. 14(1) AB 524 has attempted to provide for this particular need. Such a provision is deemed essential by this office, for as indicated above, crime victims are not criminal justice agencies and without a specific provision allowing dissemination thereto, this office would not be allowed to disseminate needed information to them. It is, therefore, our recommendation that section 14(1) be retained, but that the same be expanded to the extent that said section should specifically allow dissemination to crime victims of criminal "dispositions" as defined in section 6 of AB 524. Such an amendment would allow this office to properly inform crime victims of all final dispositions of criminal charges which concern them, whether that disposition be made in open court or whether it be made by way of an administrative decision by either the law enforcement agency or the District Attorney's Office.

Additionally, it is suggested that section 14 of AB 524 be amended to specifically authorize the dissemination of criminal history records information not only to victims of crimes but also to a victim's immediate family or guardian. Such language would thus permit dissemination of information to the family of a victim in homicide matters, and would further permit the dissemination of information to the legal guardians of victims, when such victims are minors.

Respectfully submitted,



DONALD K. WADSWORTH
Chief Criminal Deputy

DKW/lp