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:

Carl Dodge	Senator
Jean Ford	Senator
Sam Mamet	Clark County
Russell McDonald	County Commissioners Association
Ray Pike	Deputy Attorney General, Gaming Control Board
Terry J. Reynolds	Administrative Office of the Courts
Don Robb	Attorney
Jack Stratton	Gaming Control Board
Larry Struve	Deputy Attorney General

Chairman Hayes called the meeting to order at 8:07 a.m.

SENATE BILL 267

Transforms justices' courts to courts of record.

Senator Dodge said that this bill went back approximately ten years to a study that he chaired concerning the court system in Nevada. A recommendation then was to make a court of record out of the justice court.

Senator Dodge said that the bill would provide that machinery record the proceedings of justice courts. He said that justices of the peace did not feel that voices could be distinguished on the tapes if there was a transcript needed of the proceedings.

Senator Dodge said that passage of this type of legislation would have the effect of avoiding the necessity of going through a total rehearing if a case went to the district court. He said that a person gets two shots at being acquitted. A second effect of the bill would be to encourage a three-tier court system in Nevada. This system would consist

of lower courts, district courts, and appellate courts. He felt this would also give lower courts more stature by making them courts of record.

Senator Dodge said that the specific thrust of the bill is the allowing of a taped record of proceedings. He said that Section 2 of the bill provides that proceedings must be recorded by using sound recording equipment except in certain situations where a certified shorthand reporter was available. Section 3 would allow present employees of the justice court to operate the recording machinery. Subsection 2 of this section would let the same person transcribe from the tape in case there was an appeal to the district court level. Section 5 of the bill would provide for preservation of the tape for 30 days after the time for filing an appeal expires.

Senator Dodge said that Section 7, Line 20 anticipates a situation where a tape is destroyed or does not record properly. If this happened, he said that there would be a retrial in justice court. He said this could happen once in a while, but holding a new trial in justice court would be not nearly extensive as going to the district court. Effective date of the bill would be January 1, 1980, to allow justices of the peace to go through training on the use of the equipment at their Fall training seminar at the Judicial College in Reno.

Mr. Fielding asked if this tape recording might be used against a justice of the peace to show possibly that he did not follow proper procedures. Senator Dodge said this would be possible, but he said that a defendant has the same option now in district court. He said this should not be considered a trap to expose the limited legal knowledge of a justice of the peace.

Senator Dodge said that the cost of this type of equipment for each court would be $1200 to $1300 a machine. Tapes would not be that expensive, although there would probably be a larger initial cost.

Mr. Stewart asked why municipal courts had not been included in this bill. Senator Dodge answered that it would be unconstitutional to include municipal courts at this time. He said that a joint resolution had been introduced to address this situation.

Chairman Hayes asked if it would be constitutional to hold a new trial just because a tape recording was defective. Senator Dodge said that the same situation happens if a court reporter becomes ill or dies before a transcript of a court proceeding is done.

Mr. Mamet said that Clark County felt this bill would make sense in modernizing the judicial system in the State.

Mr. McDonald said he would wonder if the effective date would give small counties enough time and opportunity to budget money for purchase of such equipment. He said that with proposed restraints on spending, this bill might not "fly" for some time.

Mr. Reynolds said that he had been working on a grant that would produce funds to be able to assist the counties in purchasing sound recording equipment. He said that the effective date of this bill would allow plenty of time for purchasing this equipment.

Mr. Reynolds said that the case most frequently appealed to a district court is a conviction of DUI. He said that other cases that could be appealed are usually not because district courts are usually tougher than the justice courts. He said the DUI appeals are usually delaying tactics so that individuals do not get these points on their driving records.

SENATE BILL 420

Provides for gaming licenses for limited partnerships.

Mr. Stratton said that on Page 9, Line 16, all of the taxing sections were included except NRS 463.385. On Line 13 of the same page, after the word, "reorganization," the following language should be added: "and approved by the commission,".

SENATE BILL 438

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

Senator Ford presented a letter to the Committee regarding this bill (Exhibit A). She said that there were some inmates that did not deserve this type of privilege, but she said there were others who could be helped by keeping in touch with society. She stated that she had received letters from women prisoners concerning the reasons they would favor a bill such as this.

Mr. Stewart said that he felt a reason for criminal punishment is to let a person be responsible for his acts. He said that prisoners receive a lot of benefits they did not get 30 years ago.

Senator Ford stated her agreement that a person should be responsible for his actions, but she said that the thing to remember is that sooner or later, the prisoner will probably be released back into society. She said that it would seem that allowing the warden to let the prisoners get ready to be responsible when they get out should be something that is done.

ASSEMBLY BILL 822

Revises method of determining attorneys' fees respecting estates of decedents.

Mr. Robb said that this bill as an amendment to NRS 150.060 was very necessary because of the gross abuse by some attorneys in probate cases. He related a specific case in Washoe County where attorneys have been collecting fees of over $300,000 each time twice a year.

Mr. Robb said that there is a lot of ground work to do at the beginning of an estate, and fees in this amount might be justified then. However, he felt that as time goes on, the work of the attorneys decreases or ceases and the fees of this type are not realistic.

Mr. Robb said that this bill would not limit the attorneys' fees in probate cases, but it simply states that the attorneys must present along with a bill an accounting of the time they spent on the case for that particular time frame. He said that to justify the fees being paid in this particular estate, an attorney would have to work ten hours a day at a price of $75 an hour.

Mr. Prengaman asked if there was a move toward resolving the estate matters. Mr. Robb said that the attorneys had a "money tree" going in this case. He said the estate was $23 million when it began, and he did not think fees should be based on the size of the estate. He said that attorneys had collected $3,330,000 in ordinary fees from this estate since the man's death, and there had been $60,000 in special administration fees. He said the estate was now at $4,936,000.

Mr. Robb offered the following quote from the will of the man whose estate he was referring to during the hearing:

"What you leave at your death; let it be without controversy lest the lawyers will be your heirs. This have I endeavored to do."

ASSEMBLY JOINT RESOLUTION 30

Proposes to amend Nevada constitution by prohibiting commutation of sentences of death and life imprisonment without possibility of parole to sentences which would allow parole.

Mr. Horn stated that he felt that the average person on the street generally understood that when a criminal was given a sentence of life without parole or death that it would mean the particular individual would never get out of prison. He said that this was not the case. The sentence is converted by the Parole and Pardons Board to life with the possibility of parole. He said that it ends up that a person gets out of

prison. He cited a case from figures previously supplied to the Committee by Bob Miller, Clark County District Attorney, of a release of a man, under the sentence originally of life without parole, 13 years after he was incarcerated. He said that he had been advised that the only way to take action such as this would be through a constitutional amendment.

ASSEMBLY JOINT RESOLUTION 29

> Requests Congress to propose amendment to United States Constitution to establish immunity of each state from unconsented suit in courts of another state except to extent immunity is waived by other state.

Mr. Struve said that this resolution was the outgrowth of a recommendation made to the money committees in the case of Hall v. the State of Nevada. He said that the judgment in this case against Nevada had been $1.4 million based on an accident in which a Nevada State employee crossed the center line of a highway and collided with a California resident in his car. This resulted in a suit in California state courts.

Mr. Struve said that the matter took 11 years to progress to the United States Supreme Court, and on March 5, 1979, a decision was made which he said held two very significant points. First is that no state in the Union is immune from suits in courts of other sister states. The second point was that no court in another state is required to give effect to Nevada's conditions under which it has sovereign immunity.

Mr. Struve said that a petition was filed for rehearing on the matter and Nevada's Attorney General was joined by 41 other Attorneys General in this petition. This petition for rehearing was denied.

Mr. Struve said that this resolution would request an amendment to the Constitution to the effect that states of the Union would again have immunity from suit in the courts of sister states except to the extent that immunity has been waived in each state's own courts and to the extent that comity has been waived. He had noted in earlier discussion that the Eleventh Amendment to the Constitution had provided that states were immune from suit by residents of other states if the suits were brought in Federal court.

Mr. Banner said that he did not believe in sovereign immunity. He said that in this case a State employee had caused harm to another person and there was liability. He said he wondered if the State of Nevada had offered assistance to the person injured in this accident in 1968 during the years the courts were hearing the case. He said that Nevada probably stood behind the sovereign immunity limit of that time of $25,000 and was very "smug" about it. He said if the State is wrong,

they should pay. He said there was negligence in this case which was proven, and he said the State should not try to get Congress or anybody else to get immunity for something that the State should be responsible for.

Mr. Malone asked if someone within the State of Nevada could sue another State or entity for an amount higher than Nevada's sovereign immunity limit. Mr. Struve said that there was currently a case pending in Washoe County where the City of Salt Lake City was being sued. He said that attorneys representing Salt Lake City are trying to invoke Nevada's sovereign immunity statute.

Mr. Struve said that if the Legislature wished to abolish the sovereign immunity statute, the Attorney General's office could support that decision. He said that only 15 states still have a sovereign immunity statute in their laws.

SENATE BILL 143

Requires interpreters for certain handicapped persons in judicial and administrative proceedings.

Chairman Hayes stated that she had received the amendments on this bill.

ASSEMBLY BILL 524

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

Mr. Coulter said that the amendments on this bill would be ready on this date. He said that the Press Association felt that the bill should contain a self-destruct clause.

ASSEMBLY BILL 822

Mr. Malone moved Do Pass; Mr. Coulter seconded the motion. Under Committee Rule 3, the motion lost on the following vote:

Aye - Coulter, Fielding, Horn, Malone, Prengaman - 5.
Nay - Hayes, Banner - 2.
Not Voting - Stewart - 1.
Absent - Brady, Polish, Sena - 3.

ASSEMBLY JOINT RESOLUTION 30

Mr. Horn moved Do Pass; Mr. Malone seconded the motion. Under Committee Rule 3, the motion lost on the following vote:

Aye - Hayes, Brady, Fielding, Horn, Malone - 5.
Nay - Banner, Prengaman - 2.
Not Voting - Stewart, Coulter - 2.
Absent - Polish, Sena - 2.

ASSEMBLY JOINT RESOLUTION 29

Mr. Malone moved Do Pass on A.J.R. 29; Mr. Prengaman seconded the motion. The Committee approved the motion on the following vote:

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

SENATE BILL 420

Mr. Stewart moved to Amend, and Do Pass S.B. 420 as Amended; 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 - None.
Absent - Banner, Horn, Sena - 3.

SENATE BILL 267

Chairman Hayes suggested the amendment on Page 1, Line 3 of the word "must" to "may".

Mr. Stewart said that this would give local justices of the peace the option of using a tape recorder or using a court reporter in their courtrooms. This would further eliminate two trials for a misdemeanor that is presently appealed to the district court.

Mr. Prengaman moved to Amend, and Do Pass S.B. 267 as Amended; Mr. Coulter seconded the motion. The Committee approved the motion on the following vote:

Aye - Hayes, Stewart, Brady, Coulter, Fielding, Horn, Malone, Polish, Prengaman - 9.
Nay - None.
Absent - Banner, Sena - 2.

ASSEMBLY JOINT RESOLUTION 30

Mr. Horn moved Do Pass of A.J.R. 30; Mr. Malone seconded the motion. The Committee approved the motion on the following vote:

Aye - Hayes, Brady, Fielding, Horn, Malone, Polish - 6.
Nay - Prengaman - 1.
Not Voting - Stewart, Coulter - 2.
Absent - Banner, Sena - 2.

SENATE BILL 143

Mr. Malone moved to Amend, and Do Pass S.B. 143 as Amended; 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 - None.
Absent - Banner, Sena - 2.

The meeting was adjourned at 10:32 a.m.

Respectfully submitted,

Carl R. Ruthstrom Jr.

Carl R. Ruthstrom, Jr.
Secretary

EXHIBIT A
Page 1 of 2

JEAN FORD
SENATOR
CLARK COUNTY, DISTRICT NO. 3
3511 PUEBLO WAY
LAS VEGAS, NEVADA 89109

COMMITTEES
MEMBER
GOVERNMENT AFFAIRS
JUDICIARY
LEGISLATIVE FUNCTIONS

Nevada Legislature

SIXTIETH SESSION

May 7, 1979

TO: ASSEMBLY JUDICIARY COMMITTEE

RE. SB 438

It is my understanding that several of you question the merits of SB 438, expanding the current provision for temporary furloughs of inmates to include:

a. contacts with prospective employers

b. medical services not available within the prison, such as dental work (the prison only does emergency extractions, no fillings, etc.)

c. family visits (eligibility limited only to 180 days before an inmate has a release date for parole

Keep these facts in mind:

- the overwhelming majority of prison inmates are released sooner or later back into society
- the warden has the power to adopt regulations to greatly restrict when and how these provisions are implemented and is doing so under current law
- the provision of the 72-hour limitation, except for medical furloughs, limits the law on temporary furloughs more than it is now.
- no inmate sentenced to life imprisonment without possibility of parole or imprisoned for sex violations and not certified as eligible for parole would be eligible for any of these provisions.

While it is easy for all of us to think of prisoners who do not deserve these privileges, I hope you will also think of prisoners sentenced for less serious felonies, first-time offenders, prisoners who do have families "on the outside" waiting and wanting to maintain family relations so as to effect as smooth a transition as possible when the prisoner is released.

As you may be aware, many of the women have children being taken care of in the Reno-Carson area and it would be particularly beneficial for them to have this opportunity. Attached is information regarding much more far-reaching programs elsewhere along this line.

I respectfully urge you to give a "do pass" to SB 438.

Jean Ford

Thursday, April 26, 1979 ELKO DAILY FREE PRESS, Elko, Nevada 13

Experimetal program lets inmate mothers to raise their children

By NADINE JOSEPH
Associated Press Writer

SAN FRANCISCO (AP) — Brenda Glass is a new mother, and her pride in her 2-week-old son Nathan is obvious as she hums to the tiny infant in her arms.

Brenda Glass also is a federal prisoner, serving an 18- to 20-year prison term for a 1975 armed robbery at a Washington, D.C., motel during which $11 was taken. Her companions in crime included her brother and several friends.

She is raising her baby while an inmate as part of an experimental program aimed at giving both the mother and child a chance to succeed on the outside.

"I may be overprotective, but he's so precious to me," said the 24-year-old Georgia-born inmate. "He's the only child I've had a chance to nurse and take care of." She gave up one daughter and left a second with the baby's grandmother because she was behind bars.

The program at the Federal Correctional Institution at Pleasanton, about 40 miles east of here, will allow Ms. Glass to spend four to six months with her baby at a women's shelter in nearby Hayward while learning child care skills.

Ms. Glass says motherhood will keep her "on a straight and narrow path" upon her release on parole this summer.

Psychologists say there is a new realization that both the jailed mother and her children need more contact with each other. The mother must work out fears and guilt at being responsible for the separation, and the children must learn to understand their mother's plight and develop a more positive attitude toward law enforcement.

At Pleasanton, women inmates and volunteers also run a privately funded children's center on the prison grounds, open Saturday and Sunday for mother-child visits.

Only low-risk prisoners are eligible for the Pregnant Inmate Program — one of a growing number of federal and state projects to allow inmate mothers to spend more time with their children and develop a stronger bond. Among the other programs:

—At Clinton Correctional Facility in New Jersey, a Camp Retreat Program gives low-security inmate mothers the opportunity to spend a few weekends camping with their children.

—A Florida correctional institution inmate, Terry Moore, was granted her request to raise her baby in the state women's prison by a circuit court judge last month. Miss Moore, 22, is serving a 7½-year term for robbery and arson. She will be allowed to raise her baby in prison for 18 months.

A few legislatures — Florida, Illinois, Montana, New York and Wyoming — have specifically provided that a mother's incarceration is a sufficient reason to take her child away.

But prison officials say there is a greater awareness of the mothering needs of 1,600 federal women inmates and thousands more in state prisons. According to statistics, more than 21,000 children in American have mothers in prison. Most of the women are young, uneducated single parents.

"There is more and more planning for the female inmate," said Karen Amy, administrative officer at the Federal Bureau of Prisons. "We believe the mother has an important role to play in interacting with her children."

Psychologists agree that the children, as much as their mothers, are victims of the women's incarceration.

"The children feel that they've been abandoned and some become delinquents," said Ann Stanton, a lawyer-psychologist at the University of Minnesota, who has studied women inmates and their children.

"Many of the mothers develop unrealistic expectations while behind bars and don't anticipate negative reactions from their children," she added.

"You cannot assume that because a woman has committed a crime, she does not have a strong need to care for her children," said Betty McKenzie, social work supervisor at Clinton Correctional Facility.

A children's center on prison grounds allows the inmate mother to express her love in more relaxed surroundings than the crowded visiting area, where visitors and inmates often aren't allowed to touch each other. The center at Pleananton looks like a nursery school, with toys and bright decorations.

"The child who comes to visit has a lot of misconceptions about prison. Some of the fears are resolved here," said Harold Kahler, who heads the education program at Pleasanton.

At the Santa Clara County women's residential center in San Jose, about 25 women inmates and up to nine children are housed in an apartment complex where there are no locks, fences or guards. The women go to work, study or learn vocational skills. Their sentences range from 80 days to nine months, said Maria Black, a registered nurse who directs the program.

The mothers go to work or class, while the children are cared for in a child care center in the complex. Of 204 participants, 26 have been sent back to the Santa Clara County jail for infractions of the rules and eight women were rearrested. No one has tried to escape.

"The woman inmate knows she wants to be a good mother, but needs support or specific skills," Ms. Black said.