

Minutes of the Nevada State Legislature
Senate Committee on Human Resources and Facilities

Date: May 18, 1979

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Committee in Session at 9:29 am on Friday, May 18, 1979.

Senator Keith Ashworth in the Chair.

PRESENT: Chairman Keith Ashworth
Vice-Chairman Joe Neal
Senator Rick Blakemore
Senator Wilbur Faiss
Senator Jim Kosinski

ABSENT: Senator Clifton Young

GUESTS: Mr. Richard Ham, Chief, Bureau of Alcohol and Drug Abuse
Mr. Frank Daykin, Legal Counsel, Legislative Counsel Bureau

Chairman Ashworth requested a motion for approval of the minutes of the committee.

Senator Blakemore moved to approve the minutes of the Senate Committee on Human Resources and Facilities for April 24, 1979 through May 16, 1979.

Seconded by Senator Faiss.

Motion carried.

Yeas -- 4
Nays -- None
Not Voting -- Senator Kosinski
Absent -- Senator Young

Chairman Ashworth stated that Senator Close had reviewed A.B. 186. He said that the provisions had been in practice to some extent within some of the court systems. Chairman Ashworth opened the hearing on A.B. 186.

Mr. Richard Ham, Chief, Bureau of Alcohol and Drug Abuse, stated that he was not present to speak in support or opposition to the bill; rather, simply make comments on A.B. 186. He said that existing law provides the courts with the diversionary method for persons who are charged with a crime while under the influence of alcohol or drugs; however, it does exempt certain crimes. He said he understood the bill began because some district attorneys felt the law should only include district courts; the original law says, "if the court has reason to believe." He stated that they also felt a person should have plead guilty to a crime, which they do not have to under existing law. He said that there was some disagreement so the bill has been amended twice. He said that the second reprint requires that the person will have been "adjudged" guilty of a crime and any court may use treatment as a diversionary method.

Mr. Ham stated that they have no objections to the existing law but have no problem with A.B. 186. He stated that the Bureau preferred the bill when a person did not have to be adjudged guilty; however, they have no position against the bill.

Senator Blakemore questioned if this bill could possibly interfere with an individual's right of due process as to innocence or guilt. Mr. Ham stated that he did not believe this would apply in felony cases. Chairman Ashworth expressed concern as to a constitutional problem should an individual be charged with a crime but guilt has not been established.

Senator Kosinski questioned if it was legal to dismiss a charge after an individual is found guilty. He stated that he was inclined to believe this could not be done; however, this is an integral portion of A.B. 186. Senator Kosinski requested that Mr. Frank Daykin be consulted.

Senator Blakemore questioned the 10 day advance notice referenced on Page 2, Section 2, subsection 1, Lines 6 and 7. Senator Kosinski suggested deleting that language and inserting, "upon reasonable notice."

Senator Blakemore questioned the number of justices of the peace that would utilize this area of the law. Mr. Ham stated that it is used mostly by municipal court judges followed by district court judges.

Chairman Ashworth questioned what would happen should the bill not be processed. Mr. Ham said they would continue procedures according to existing law.

Mr. Frank Daykin, Legal Counsel, Legislative Counsel Bureau, stated that he did not believe it would be legal to dismiss a charge after an individual is found guilty. Senator Blakemore said that a provision would have to be included as to expunging the records. Mr. Daykin stated that a move to dismiss can be done at any time prior to the entering of the judgement of conviction. Chairman Ashworth questioned if a sentence would be the order to go to an alcohol and drug abuse treatment center. Mr. Daykin stated that this would be made a condition of probation in the district courts; however, the justices or municipal courts do not have probation.

Senator Blakemore questioned if an individual could not post bail, what about the provision to hold him for 10 days. Mr. Daykin stated that is a problem of policy as well. Chairman Ashworth questioned the length of time and questioned inserting, "upon reasonable notice." Mr. Daykin stated that there is nothing sacrosanct about the 10 day period.

Senator Kosinski questioned if the provision on Page 1, Line 4 could be followed; also, can the procedure that is outlined in the

bill be followed. Mr. Daykin responded that he believed the state would have considerable difficulty in following the procedure in the inferior courts. He said it seems to contemplate a flexibility in sentencing which those courts do not have. He said that there has also been some argument as to if these courts can defer sentencing. Mr. Daykin stated that this bill refers to dismissal after judgement is entered; therefore, dismissal is not proper at this point. He said that the question as to if the deferral of sentencing is valid in a lower court is one that he questions.

A.B. 186 (Exhibit "A")

Senator Kosinski moved to "Indefinitely Postpone" A.B. 186.

Seconded by Senator Blakemore.

Motion carried.

Yeas -- 5
Nays -- None
Absent -- Senator Young

Regarding A.B. 541, Senator Kosinski stated that he had spoken to Mr. George Vargas who has suggested some amendments. Senator Blakemore stated that the main problem he sees in the bill is the mechanics of handling the plant in the event of default which could present a great problem to the holder of the first mortgages. Senator Kosinski concurred and stated that the proposed amendments would clearly require the developer to be responsible until there is some percentage of buildup; this should address the problem. Senator Kosinski said he would like to prepare the amendment. Chairman Ashworth stated that future meetings will be subject to the call of the Chair. Senator Blakemore stated his support of the concept of "package" sewer plants.

There being no further business, Chairman Ashworth adjourned the meeting at 10:05 am.

Respectfully submitted,



Roni Ronemus, Committee Secretary

Approved:

Chairman
Senator Keith Ashworth

(REPRINTED WITH ADOPTED AMENDMENTS)

SECOND REPRINT

A. B. 186

ASSEMBLY BILL NO. 186—COMMITTEE ON JUDICIARY

JANUARY 24, 1979

Referred to Committee on Judiciary

SUMMARY—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. (BDR 40-793)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to alcohol and drug abuse; authorizing courts to order commitment and treatment before sentencing of alcoholics or drug addicts convicted of certain crimes, and to dismiss the charges or impose sentence under specified circumstances; making such commitment a criminal conviction unless dismissed; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. NRS 458.300 is hereby amended to read as follows:
2 458.300 Subject to the provisions of NRS 458.290 to 458.350,
3 inclusive, an alcoholic or drug addict [charged with a crime] *who has*
4 *been adjudged guilty of a crime committed under the influence of alcohol*
5 *or drugs* is eligible to elect treatment under the supervision of a state-
6 approved alcohol or drug treatment facility instead of prosecution unless:
7 1. The crime is a crime against the person as provided for in chapter
8 200 of NRS;
9 2. The crime is that of selling a controlled substance as defined in
10 chapter 453 of NRS;
11 3. The alcoholic or drug addict has a record of one or more convictions
12 of a crime of violence or of selling a controlled substance as defined
13 in chapter 453 of NRS, or of two or more convictions of any felony;
14 4. Other criminal proceedings alleging commission of a felony are
15 pending against the alcoholic or drug addict;
16 5. The alcoholic or drug addict is on probation or parole and the
17 appropriate parole or probation authority does not consent to such elec-
18 tion; or
19 6. The alcoholic or drug addict elected and was admitted, pursuant
20 to NRS 458.290 to 458.350, inclusive, to a treatment program on two
21 prior occasions within any consecutive 2-year period.