

The meeting was called to order at 9:00 a.m. Senator Close was in the Chair.

PRESENT: Senator Close
Senator Hernstadt
Senator Dodge
Senator Raggio
Senator Ford
Senator Don Ashworth

ABSENT: Senator Sloan, Excused

SB 105 Clarifies procedures and requirements for disclaimers of property interests.

For testimony on this measure, see the minutes of the meeting for Tuesday, January 30, 1979.

Senator Don Ashworth informed the Committee that he had talked with Chuck Johnson regarding the incompetency provision and Mr. Johnson had indicated that it had been used successfully in other cases. However, Senator Ashworth stated that it was his feeling that 99% of the people using this measure would be competent adults and that he would have no objection to deleting incompetents, infants, and minors if that was the decision of the Committee.

At the request of the Chair, Senator Don Ashworth will compare this bill to the California statute from which it came and report back on any discrepancies.

No action was taken at this time.

SB 102 Adds to procedural requirements for disqualification of judges.

SB 104 Revises provisions relating to disqualification of judges.

SB 111 Reinstates provision for one change of judge upon filing of affidavit alleging bias.

For testimony on these measures, see the minutes of the meeting for Wednesday, January 31, 1979.

Senator Close stated that he did not see any problem with SB 102 as long as it was conformed to whatever is done with either SB 104 or SB 111.

Senator Raggio felt that the 2 time periods for filing an affidavit (NRS 1.235 and NRS 1.240) should be conformed.

Senator Dodge further commented that if the filing of the affidavits were indeed being used as delaying tactics, the date for filing should be moved away from the date of the trial and back to when they first know what judge will be hearing the case.

Senator Close stated that he would have no problem with that, however, he was concerned about the situation wherein bias was discovered between the time the judge is assigned and the time you go to trial.

Senator Raggio responded that under NRS 1.240 you would have a "one-shot" opportunity to file for actual bias or prejudice, for which there is no hearing. He felt that would take care of the situation Senator Close was concerned about.

Senator Ford pointed out that the language being deleted in SB 104 is the same language that is being added in SB 111, although in different sections of the NRS.

At this point, confusion ran rampant among the Committee and Frank Daykin, Legislative Counsel Bureau, was asked to clarify the matter.

Mr. Daykin stated that SB 111 reverts the law to the way the Supreme Court declared it should read, with the necessary mechanical changes to take into account the enactment of NRS 1.235, which was not declared invalid.

SB 104, however, repeals that which was previously repealed and that was reinstated by the Supreme Court when they declared peremptory challenges to be invalid.

In response to a question from the Committee, Mr. Daykin stated that he did not feel there would be any constitutional problem in conforming the time frames in 1.235 and 1.240. He further stated that some clarification would be needed in 1.235 in that when it was drafted, it was assumed that the judge would not be assigned until immediately prior to the trial.

Fortunately, no action was taken at this time.

BDR 14-481 Permits interception of communications in use of evidence derived from such interceptions in certain circumstances involving gaming violations. (SB 185)

Senator Hernstadt moved that BDR 14-481 be approved for Committee introduction.

Seconded by Senator Dodge

Motion carried unanimously.

(Committee Minutes)

There being no further business, the meeting was adjourned.

Respectfully submitted,

Cheri Kinsley
Cheri Kinsley, Secretary

APPROVED:

Senator Melvin D. Close, Jr., Chairman