

The meeting was called to order at 8:09 a.m. Senator Close was in the Chair.

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

SB 294 Provides for establishing parentage and enforcing support of children.

Testifying on this bill are Ace Martell, Deputy Administrator, Walt Lloyd, Deputy Attorney General assigned to the Welfare Department in Child Support Enforcement, and Bill Furlong with Support Enforcement.

Mr. Furlong stated that it is estimated that the paternity cases cost the taxpayers of Nevada a significant amount of money during any fiscal year, and increases every year. In 1974 there were 8,592 total births, of those 891 were illegitimate. In 1975 there were 8,668 total births and 938 of those were illegitimate. In 1976 there were 9,646 total births and 1,059 were illegitimate. This represents an increase of 26% in a three year period. It is estimated that it would cost Nevada \$4,855,000 annually, if each of these children were placed on Aid to Dependent Children for only one single year.

Mr. Martell stated that the Welfare Department's case load is down substantially since the child enforcement program was enacted. However, 53% of the cases that are handled are illegitimate births.

Mr. Furlong stated that SB 294 removes some of the barriers involving prosecution. It removes the Statute of Limitations in those cases brought in the name of the child. If this bill were enacted, it would free 1,718 cases which we would be able to go after to attempt to recover money that was provided under A.D.C. This bill also recognizes advances in medical technology and blood examination. It provides for such evidence to be weighed much the same as any other kind of scientific evidence that might be presented in court. Such evidence will enhance our present ability to exclude innocent males who are accused of being punitive fathers. Blood tests are used only for exclusionary purposes under our present act, this would give us the ability to use these tests both ways.

Mr. Martell stated that the state of the art is so much more sophisticated now compared to 10 years ago. Blood samples are much more exact at this stage of the game.

Mr. Lloyd stated that they are asking that this be weighed in the scientific determination, considered in deliberation of the determination of paternity. The ability of a human organism to accept an organ transplant has driven the science of blood analysis far beyond what it was 10 to 15 years ago. A child has distinct blood characteristics that are genetically determined by the genetic makeup of the mother and father. During World War II we became familiar with 4 characteristics in the blood. In the new science area, there are now about 4 distinct elements in the white corpuscles. Two have been addressed in particular as A and B. The World Health Organization has identified and documented characteristics to a factor in excess of 62, in these two areas alone. We now have an infinite number of combinations in the populace. When we talk about exclusion, today, 98 out of 100 males can be excluded. If you take that 98 out of 100 you have two candidates left. The one that had access to that particular woman would be the father. This is not unlike other areas of expert testimony which is introduced in court. We are now talking of hard, scientific evidence being available to make determinations in court. At the present there are 25 states that allow blood tests to be used to exclude, or to be introduced on stipulation.

Senator Ford asked if this was a uniform act.

Mr. Lloyd stated that it is a combination. The front end, or bulk of this bill, is the Uniform Parentage Act. It does have some modifications, specifically in the areas of registration of the public acknowledgement of birth. Then NRS 126 series is retained in the latter part of the bill.

Senator Close stated that the point of the Uniform Act is so that people moving from state to state know approximately what to anticipate as far as the other state's laws. If we start making it non-uniform, than the purpose of the act is frustrated.

Mr. Lloyd stated that as a result of Supreme Court decisions in the area of uniform laws, the Uniform Parentage Act of 1973 evolved. This mainly was to give rights to the father of the illegitimate child. Where this bill departs from that Act is when we become more explicit in the obligation to support.

Senator Close stated that perhaps they should go through the bill section by section to see what changes have been made and how it would affect the Uniform Act.

Mr. Lloyd stated that the first section deals with the rights of the child. In effect, a child born out of wedlock has the same rights of a child born of a marriage. Section Two deals with all persons, no matter when born. This would be people who endeavor to establish paternity and may be 15 or 20 years old. Section Three deals with the definition of parents. Sub-section

Three deals with the parent/child relationship. Section Five is being amended. It affects NRS 126.325 so this is a repealer.

Section Six establishes a series of presumptions. This section deals with NRS 201, which says it is the responsibility of the District Attorney to bring a criminal action where there has been a failure to provide support. Also, this section would make it clearer that this is a civil procedure.

Senator Ashworth asked what do you do in the case where the fellow has no job or assets of any type.

Mr. Lloyd stated that usually, eventually there is an inheritance, or there are social security benefits, and the child has the right to receive these.

Section Six also tracks with the Uniform Act. There is one problem with this section and that is in F. This should be amended to delete the County Recorder. The Bureau of Vital Statistics should be the only ones to have the registration so that the files can be sealed.

Senator Close stated he felt Sub-section E was very bad. A case in point would be where a man has given the child, say \$1,000, and is just helping out the mother. This reads that he could be presumed to be the father.

Mr. Lloyd stated that that is the law today. If a man performs an obligation of support it could be evidence that he is the father. This is not conclusive evidence, but it is evidence to be weighed in court.

Mr. Martell stated that number one he would have to have access to the mother, and number two would be the blood tests. Our office is not in the business of going out and saying to the man, "because you support this child you are the father." This would just be another factor to put with the other factors in establishing proof.

Mr. Lloyd stated that Section Seven relates to the circumstances of artificial insemination. This establishes a procedure whereby any physician who engages in such a procedure must obtain, by law, the consent of both parties in a marriage. This must be documented and filed with the Department of Human Resources and the Public Health Division, where it will be put in a sealed file. He brought out the fact that at this time the law is silent on this point.

Section Eight is the child/father relationship. This section places a time constraint of 5 years on a father who would want to disavow a child. He stated that they would also like to amend this section to include a minor mother. There are many cases where a minor gives birth and this is not spelled out in the law. Also, under Sub-section 4 they would like some language so that the parents cannot get together and make an agreement under the table that is not in the best interests of the child.

Section 9 relates to the statute of limitations. The Welfare Department would like some time frame spelled out here to bring an action for the child. They feel it should be up to a year after the time the child goes on assistance.

Senator Close stated that as there were other bills on the agenda they would continue the hearing on this bill until Tuesday, March 20th at 8:00 a.m.

No action was taken at this time.

AB 115 Adopts the Uniform Child Custody Jurisdiction Act.

Areatha Pearson, Child Custody Investigator with the Eighth Judicial Court in Las Vegas, stated she is in favor of this bill. She has worked in the area of custody and visitation for the last five years. It has been estimated that over 100,000 children have been subjected to abductions. This does not take into account the number of children where attempts have failed. One of the purposes of this bill is to stop a parent from abduction and trying to find a favorable forum to get a favorable custody decision from. Many of these parents move from state to state until they find one that will rule in their favor. Most courts take a hands off attitude and do not want to get involved. There is a private investigator in Las Vegas who has abducted over 1,000 children for his clients. Although you could prosecute under our kidnapping laws, there doesn't seem to be any record of anyone ever doing that in a custody controversy.

Senator Close asked how many states have adopted this act?

Miss Pearson stated that 28 states have adopted this form and two other states have passed the major sections of this bill, but not in its entirety.

Senator Hernstadt asked what happens if the two parents get divorced and move from the home state to two different states. Do they then have to go back to the home state to get custody or support?

Miss Pearson stated that it depends on how long the child had been out of the state where the divorce was issued. It sets forth in this bill what the home state would be and that is defined as the residency of the child for the last 6 months.

Senator Dodge asked how the state got the original documents from the home state.

Miss Pearson stated that there is cooperation between the states, even the states that have not adopted the uniform act.

Senator Dodge asked if the Welfare Department had the right to act in an emergency situation to remove the child from a dangerous situation.

Miss Pearson stated that they can act under protective services through the juvenile courts.

Senator Close asked how a parent, under ordinary circumstances, could physically get the child back.

Miss Pearson stated that in some states under statute, there is a provision whereby there is a provision for the pick-up of a child and return through inter-state compact. She wasn't sure if this would be physical removal.

Bill Furlong with State Support Enforcement stated that if you had a child in Illinois that was abducted to Nevada, the parent in Illinois was determined by the court to be the proper parent, than that parent would have to come to Nevada and abduct the child back. There is no provision except under a writ of habeas corpus.

Senator Ashworth asked what is a child custody registry.

Miss Pearson stated that would be a provision set up in the clerk's office for out-of-state custody orders to be registered and also to channel information about other cases where actions are pending. If a parent and a child came to Nevada with a custody order, that parent would then register it and it would be treated as though it were granted in Nevada. Many times around the holidays, parents call and don't want to send their child to another state for visitation unless that state has adopted this law. There will be many problems until this law is adopted.

Senator Raggio asked if there was anywhere in the bill that gave the court authority to take custody. He felt if there wasn't that this should be spelled out.

Miss Pearson felt this was covered under Section 5 where it more or less states that the court has wide discretion and can act in protection of the child, however, it is not specifically addressed in this bill. She stated she would like to bring up one more point, the fact that in the information gathering section, all the names that the child may have lived with in the last 5 years are kept. This is because the mother or father may not be the best person to be living with in terms of the best interest of the child.

Senator Ford moved to report AB 115 out of Committee with a "do pass" recommendation.

Senator Sloan seconded.

Motion carried unanimously. Senator Raggio was absent for the vote.

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

See minutes of January 30, February 5, 9, 26 and 27 for testimony and discussion.

Senator Dodge moved to report SB 105 out of Committee with a "do pass" recommendation.

Senator Ashworth seconded.

Motion carried unanimously. Senator Raggio was absent for the vote.

SB 269 Provides certain rights to professional engineers and land surveyors.

See March 9 for testimony and discussion.

Senator Dodge moved to report SB 269 be "Indefinitely Postponed."

Senator Sloan seconded.

Motion carried unanimously. Senator Raggio was absent for the vote.

SB 295 Requires certain justices of the peace to serve full time.

See minutes of March 13 for testimony and discussion.

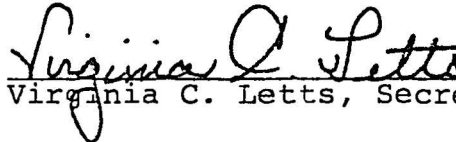
Senator Ashworth moved to report SB 295 be "Indefinitely Postponed."

Senator Sloan seconded.

Motion carried unanimously.

The meeting adjourned at 10:50 a.m.

Respectfully submitted


Virginia C. Letts, Secretary

APPROVED:

Senator Melvin D. Close, Jr., Chairman

SENATE BILL NO. 105—COMMITTEE ON JUDICIARY

JANUARY 24, 1979

Referred to Committee on Judiciary

SUMMARY—Clarifies procedures and requirements for disclaimers of property interests. (BDR 10-418)

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 disclaimers of property interests; clarifying procedures and requirements for valid disclaimers, revocations of disclaimers and waivers of the right to disclaim; 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. Title 10 of NRS is hereby amended by adding thereto
2 a new chapter to consist of the provisions set forth as sections 2 to 12,
3 inclusive, of this act.
4 SEC. 2. As used in this chapter, unless the context otherwise requires:
5 1. "Beneficiary" means any person entitled, but for his disclaimer,
6 to take an interest:
7 (a) By intestate succession;
8 (b) By devise;
9 (c) By legacy or bequest;
10 (d) By succession to a disclaimed interest;
11 (e) By virtue of an election to take against a will;
12 (f) As beneficiary of a testamentary trust;
13 (g) Pursuant to the exercise or nonexercise of a power of appoint-
14 ment;
15 (h) As donee of any power of appointment; or
16 (i) As beneficiary of an inter vivos gift, whether outright or in trust.
17 2. "Interest" means the whole of any property, real or personal, legal
18 or equitable, present or future, or any fractional part, share or particular
19 portion or specific assets thereof, or any estate in any such property, or
20 power to appoint, consume, apply or expend property, or any other
21 right, power, privilege or immunity relating thereto.
22 3. "Disclaimer" means a written instrument which declines, refuses,
23 renounces or disclaims any interest which would otherwise be succeeded
24 to by a beneficiary.

Original bill is 4 pages long.
Contact the Research Library for
a copy of the complete bill.

ASSEMBLY BILL NO. 115—COMMITTEE ON JUDICIARY

JANUARY 18, 1979

Referred to Committee on Judiciary

SUMMARY—Adopts the Uniform Child Custody Jurisdiction Act.
(BDR 11-527)

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 child custody; adopting the Uniform Child Custody Jurisdiction Act; 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. Title 11 of NRS is hereby amended by adding thereto
2 a new chapter to consist of the provisions set forth as sections 2 to 26,
3 inclusive, of this act.
4 SEC. 2. This chapter may be cited as the Uniform Child Custody
5 Jurisdiction Act.
6 SEC. 3. The general purposes of this chapter are to:
7 1. Avoid jurisdictional competition and conflict with courts of other
8 states in matters of child custody which have in the past resulting in the
9 shifting of children from state to state with harmful effects on their
10 well-being;
11 2. Promote cooperation with the courts of other states to the end
12 that a custody decree is rendered in that state which can best decide the
13 case in the interest of the child;
14 3. Assure that litigation concerning the custody of a child take place
15 ordinarily in the state with which the child and his family have the
16 closest connection and where significant evidence concerning his care,
17 protection, training and personal relationships is most readily available,
18 and that courts of this state decline the exercise of jurisdiction when the
19 child and his family have a closer connection with another state;
20 4. Discourage continuing controversies over child custody in the
21 interest of greater stability of home environment and of secure family
22 relationships for the child;
23 5. Deter abductions and other unilateral removals of children under-
24 taken to obtain custody awards;