

The meeting was called to order at 8:00 a.m. Senator Close was in the Chair.

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

ABSENT: None

SB 174 Amends requirements for notice of check refused for payment because of insufficient funds.

For testimony and further discussion, see the minutes of the meetings for February 15, 16 and March 21, 1979.

The committee reviewed the proposed amendments.

Senator Close expressed concern that the issuance of a bad check for \$100 could be punishable as a felony, with up to 10 years and a \$10,000 fine.

Senator Dodge stated that when this law was originally written, the testimony was that people would pass many small checks, which in the aggregate, amounted to a good deal of money. This was an attempt to reach that situation. Additionally, if this was a misdemeanor, it would not be an extraditable offense.

Senator Raggio stated that he had a practical problem with the application of Section 2, paragraph (b). He asked why the notice that is sent out by the bank in the ordinary course of business, suffice as the notice. He questioned the need to place an affirmative duty on the part of the payee.

Senator Dodge responded that the problem with doing that is that you are getting the bank involved in a question of notice. As the prosecution, if you go to court on this, you have to have the whole set of facts yourself.

Senator Raggio suggested amending (b) to read "unless within 10 days after receiving notice of this fact from either the drawee or the payee." He further suggested that the notice be in writing.

It was the consensus of the committee to accept that language.

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Senator Close asked, if the retail establishment failed to post the notice as required on page 2, lines 9 through 17, would that be a defense against the bad check law.

Senator Dodge stated that the notice wasn't intended to be jurisdictional. It was merely meant to apprise the public of the law in this area.

Senator Close stated that inasmuch as it read "must be placed" he felt presumption could be argued. He stated that he would check with Frank Daykin, Legislative Counsel, on the question.

Senator Hernstadt moved to report SB 174 out of committee with an "amend and do pass" recommendation.

Seconded by Senator Ashworth.

Motion carried unanimously. Senator Ford was absent from the vote.

SB 262 Specifies certain rights and liabilities of lessor and lessee upon termination or expiration of lease of motor vehicle.

For testimony and further discussion, see the minutes of the meetings for March 9 and 27, 1979.

In reviewing the federal statute on car leasing, Senator Raggio made the observation that it is almost a rebuttable presumption that the lessor's estimated residual value is not in good faith if it exceeds 3 times the average monthly payment.

Senator Close suggested that that should be included in here. It would preclude the lessor from figuring an erroneous residual value at the outset of the lease, therefore a low monthly payment, and then coming up with an enormous residual value at the end of the lease.

No action was taken at this time.

AB 172 Revises provisions for placement of children for adoption and permanent free care.

For testimony and further discussion on this measure, see the minutes of the meeting for March 6, 1979.

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Senator Close informed the committee that he had been contacted by Joe Braswell, the Director of the Inter-Tribal Council of Nevada, and was informed that federal law governs indian adoptions. He therefore requested that they be exempted from this statute.

Bill Lavaty and Mary Lee, Welfare Division, appeared at the request of the committee. The committee asked that they explain the placement procedure for an adoption.

Ms. Lee stated that once they are notified that there is going to be a placement, they do an initial investigation. Thirty days after the child has been in the home, the adoptive parents may file a petition for adoption. However, the order for adoption cannot be granted until the child has been in the home for 6 months. Currently, once the petition has been filed, they are required to do a second investigation. This measure, with the 3 month provision, will allow them the discretion to decide if one is warranted.

Senator Sloan asked on what basis they would determine whether another investigation is warranted.

Ms. Lee responded that once the child has been placed, they maintain contact with the family and maintain supervision until the adoption is consummated.

Senator Sloan felt that they would be in a better position to judge the need for a second investigation rather than having an arbitrary time frame.

It was the decision of the committee to amend this to be permissive.

Senator Sloan moved that AB 172 be reported out of committee with an "amend and do pass" recommendation.

Seconded by Senator Ashworth.

Motion carried unanimously. Senators Ford and Hernstadt were absent from the vote.

SB 326 Diverts percentage of certain license fees collected by Nevada gaming commission for use of aging services division of department of human resources.

Senator Wilbur Faiss testified in support of this measure.



He stated that this money will be used for emergency situations for senior citizens.

Mary Wild, Vice Chairwoman for the Advisory Board for Older Americans; and John McSweeney, Administrator for the Division of Aging Services, testified in support of this measure.

Mrs. Wild stated that the federal government has decided that as of March 1, 1979, senior citizens no longer need to eat. They have cut their food stamp allocations ridiculously low. They have also reduced living expenditures to \$80 per month, which is supposed to include utilities and medical services as well.

Mr. McSweeney stated that they anticipated that this bill would generate approximately \$500,000 for this program.

Senator Raggio asked, if this money were made available, how would it be distributed.

Mr. McSweeney responded that 5% would be allocated to replace the monies that are being cut from the federal government. The remainder of the money would be used for such things as transportation to health facilities, feeding sites, emergency situations, etc. Guidelines would be established as to the use of the money.

Senator Dodge asked what the response to this had been in the two money committees.

Mr. McSweeney stated that it had not been favorable.

Senator Dodge stated that since this has a fiscal impact, it would have to be sent to Finance, and inasmuch as they have already turned it down, he felt it would be rather futile to send it back.

Senator Ashworth moved to refer SB 326 to the committee on Finance, without recommendation.

Seconded by Senator Hernstadt.

Motion carried unanimously. Senator Ford was absent from the vote.

SB 342 Provides procedure for obtaining court order directing transfer of stocks and bonds included in certain small estates.

SB 352 Prescribes form of affidavit required to obtain possession of assets of estates valued at less than \$5,000.

Senator Ashworth stated that SB 342 applies only to stocks and bonds; SB 352 opens it to everything. SB 342 also sets out what the affidavit should contain.

Senator Close suggested amending that into SB 352.

It was the decision of the committee to process SB 352 and make the following amendments:

- 1) Clarify that on page 2, lines 12-14 "successors of the decedent" relates back "successor" on page 1, lines 6-7.
- 2) Stipulate that the transferer or distributor of the money or stock is released from liability if they rely in good faith on the affidavit.
- 3) Allow petition to the court for an order, as required for the transfer of stocks and bonds for out-of-state transfers.

Senator Hernstadt moved to report SB 352 out of committee with an "amend and do pass" recommendation.

Seconded by Senator Ashworth.

Motion carried unanimously. Senators Dodge and Ford were absent from the vote.

Senator Ashworth moved to indefinitely postpone SB 342.

Seconded by Senator Hernstadt.

Motion carried unanimously. Senators Dodge and Ford were absent from the vote.

SB 343 Provides for hearing on notice of lis pendens and for expunging recorded notice upon posting of bond in certain circumstances.

Senator Close stated that presently, if you have an action for the purpose of contesting title of property, you can file a lis pendens and by so doing, that lis pendens will sit on that property until the action is finally resolved.

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There is no provision in law whereby you can put a bond or security with the court for the purpose of clearing the title, while at the same time, taking care of the claimants rights if it is found that he was entitled to the property.

Senator Dodge expressed concern that the 2 days' notice might not be adequate time for the parties to come before the court.

Senator Sloan agreed and further stated that that was particularly true considering the burden that must be carried. He was concerned about Section 1, subsection 2, paragraph (3) and the use of "irreparably injured." He stated that that was an almost impossible showing.

It was the consensus of the committee to allow 5 days' notice and to delete "irreparably".

Senator Close suggested adding on page 2, line 16 "or other adequate security." He felt that a person may wish to put it in cash.

Senator Ashworth moved to report SB 343 out of committee with an "amend and do pass" recommendation.

Seconded by Senator Hernstadt.

Motion carried unanimously. Senator Ford was absent from the vote.

AB 264 Removes distinctions based on sex from NRS 207.040

Senator Raggio moved to report AB 264 out of committee with a "do pass" recommendation.

Seconded by Senator Hernstadt.

Motion carried unanimously. Senator Ford was absent from the vote.

SB 292 Provides for periodic payments of certain damages recovered in malpractice claims against providers of health care.

For testimony and further discussion on this measure, see the minutes of the meetings for March 15 and 28, 1979.



In continued discussion on the situation where the individual lives longer than the anticipated life expectancy, Senator Dodge stated that there were two alternatives:

- 1) complete funding with the preservation of the interest; or
- 2) the purchase of an annuity for life.

Senator Close stated that, in considering this measure two years ago, they provided that the interest earned was to be distributed to the injured person as a hedge against inflation.

The court is always under an obligation to insure that there is sufficient money on deposit.

Senator Raggio stated that that couldn't be done in the situation where the doctor had no insurance.

Senator Close responded that, assuming the doctor is "bare" the least amount of money the individual is going to receive will be the jury award, plus any interest that would accrue.

Senator Dodge stated that he was concerned that the insurance companies were not coming forward with any statistics on lowered premium rates if this were passed.


It was the decision of the committee to withhold action pending testimony from insurance companies.

The following measures were unanimously approved for committee introduction: (Senator Ford was absent from the vote)

- BDR 43-1667 Specifies applicability of prohibition against reckless driving to public and private property. (SB 399)
- BDR 43-1666 Increases penalty for second or subsequent offense of driving without valid license. (SB 400)
- BDR 12-1158 Revises provisions of law concerning estate of decedents and minors. (SB 398)
- BDR 16-1288 Reduces penalty for robbery if no deadly weapon is used and bars probation if one is used. (SB 397)

There being no further business, the meeting was adjourned.

Respectfully submitted,

  
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Cheri Kinsley, Secretary

APPROVED:

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Senator Melvin D. Close, Jr., Chairman



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SENATE BILL NO. 326—SENATOR FAISS

MARCH 13, 1979

Referred to Committee on Judiciary

**SUMMARY**—Diverts percentage of certain license fees collected by Nevada gaming commission for use of aging services division of department of human resources. (BDR 41-1297)

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



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

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AN ACT relating to gaming; diverting a percentage of certain license fees collected by the Nevada gaming commission to the state treasurer for the use of the aging services division of the department of human resources; 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. Chapter 463 of NRS is hereby amended by adding  
2 thereto a new section which shall read as follows:  
3 *The commission shall transfer 0.5 percent of all license fees collected*  
4 *pursuant to NRS 463.370 to 463.380, inclusive, to the state treasurer*  
5 *for the use of the aging services division of the department of human*  
6 *resources in carrying out the provisions of chapter 427A of NRS.*

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SENATE BILL NO. 343—SENATOR CLOSE

MARCH 20, 1979

Referred to Committee on Judiciary

SUMMARY—Provides for hearing on notice of lis pendens and for expunging recorded notice upon posting of bond in certain circumstances. (BDR 2-1289)

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.

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AN ACT relating to the commencement of actions; providing a hearing for a party opposing a notice of the pendency of an action; authorizing the court to expunge such a notice in the recorder's files upon posting of a bond in certain circumstances; 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. Chapter 14 of NRS is hereby amended by adding  
2 thereto a new section which shall read as follows:

3 1. *After a notice of pendency of an action has been filed with the*  
4 *recorder of the county, the defendant or, if affirmative relief is claimed in*  
5 *the answer, the plaintiff, may request that the court hold a hearing on the*  
6 *notice, and such a hearing must be set as soon as is practicable, taking*  
7 *precedence over all other civil matters except a motion for a preliminary*  
8 *injunction.*

9 2. *Upon 2 days' notice, the party who filed the notice of pendency*  
10 *of the action must appear at the hearing and, through affidavits and other*  
11 *evidence which the court may permit, prove by a preponderance of evi-*  
12 *dence that:*

13 (a) *The action is for the foreclosure of a mortgage upon the real prop-*  
14 *erty described in the notice or affects the title or possession of the real*  
15 *property described in the notice;*

16 (b) *The action was not brought in bad faith or for an improper motive;*

17 (c) *Probable cause exists to believe that he will prevail in the action*  
18 *and will be entitled to relief affecting the title or possession of the real*  
19 *property;*

20 (d) *He will be able to perform any conditions precedent to the relief*  
21 *sought in the action insofar as it affects the title or possession of the real*  
22 *property; and*

Original bill is 2 pages long.  
Contact the Research Library for  
a copy of the complete bill.

SENATE BILL NO. 352—SENATOR DON ASHWORTH

MARCH 22, 1979

Referred to Committee on Judiciary

SUMMARY—Prescribes form of affidavit required to obtain possession of assets of estates valued at less than \$5,000. (BDR 12-1418)

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 estates of deceased persons; prescribing the form of the affidavit required to obtain possession of the assets of an estate of personal property valued at less than \$5,000; 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 146.080 is hereby amended to read as follows:
- 2 146.080 1. When a decedent leaves no real property, nor interest
- 3 therein nor lien thereon, in this state and the gross value of the deced-
- 4 ent's property in this state, over and above any amounts due to the
- 5 decedent for services in the Armed Forces of the United States, does
- 6 not exceed \$5,000, the surviving spouse, the children, lawful issue of
- 7 deceased children, the parent, the brother or sister of the decedent, or
- 8 the guardian of the estate of any minor or insane or incompetent person
- 9 bearing [such] *that* relationship to the decedent, if [such] *that* person
- 10 has a right to succeed to the property of the decedent or is the sole
- 11 beneficiary under the last will and testament of the decedent, may, 40
- 12 days after the death of decedent, without procuring letters of admin-
- 13 istration or awaiting the probate of the will, collect any money due the
- 14 decedent, receive the property of the decedent, and have any evidences
- 15 of interest, indebtedness or right transferred to him upon furnishing the
- 16 person, representative, corporation, officer or body owing the money,
- 17 having custody of [such] *the* property or acting as registrar or transfer
- 18 agent of [such] *the* evidences of interest, indebtedness or right, with an
- 19 affidavit showing the right of the affiant or affiants to receive [such]
- 20 *the* money or property or to have [such] *the* evidences transferred.
- 21 2. *An affidavit made pursuant to this section must state:*
- 22 (a) *The affiant's name and address, and that the affiant is entitled*
- 23 *by law to succeed to the property claimed;*

Original bill is 2 pages long.  
Contact the Research Library for  
a copy of the complete bill.



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ASSEMBLY BILL NO. 172—ASSEMBLYMEN  
BENNETT AND CHANEY

JANUARY 23, 1979

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Referred to Committee on Health and Welfare

SUMMARY—Revises provisions for placement of children for adoption and permanent free care. (BDR 11-369)

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

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

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AN ACT relating to placement of children for adoption and permanent free care; revising provisions for licensing of child-placing agencies; simplifying procedures for placement; clarifying provisions; deleting obsolete provisions; 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 127.050 is hereby amended to read as follows:  
2 127.050 The following may accept relinquishments for the adoption  
3 of children from parents and guardians and may consent to the adoption  
4 of children:  
5 1. The welfare division of the department of human resources, to  
6 whom the child has been relinquished for adoption;  
7 2. A child-placing agency licensed by the welfare division of the  
8 department of human resources, [pursuant to NRS 127.250 or 127.260,]  
9 to whom the child has been relinquished for adoption; or  
10 3. Any child-placing agency authorized under the laws of another  
11 state to accept relinquishments and make placements, to whom the child  
12 has been relinquished for adoption.  
13 SEC. 2. NRS 127.240 is hereby amended to read as follows:  
14 127.240 1. No person [other than the parent or guardian of a  
15 child] may place, arrange the placement of, or assist in placing or in  
16 arranging the placement of, any child for adoption or permanent free  
17 care without securing and having in full force a license to operate a  
18 child-placing agency issued by the welfare division of the department of  
19 human resources. This subsection applies to agents, servants, physicians  
20 and attorneys of parents or guardians, as well as to other persons.  
21 2. [Nothing in this section shall be construed to] *This section does*  
22 *not prohibit a parent or guardian from placing, arranging the placement*

**A. B. 264**

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**ASSEMBLY BILL NO. 264—ASSEMBLYMEN HAYES, GETTO,  
HORN AND STEWART**

**FEBRUARY 2, 1979**

Referred to Committee on Judiciary

**SUMMARY—Removes distinctions based on sex from NRS 207.040.  
(BDR 16-576)**

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

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

**AN ACT relating to convicted vagrants; removing distinctions based on sex from NRS 207.040, authorizing labor on public properties; 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 207.040 is hereby amended to read as follows:  
2 207.040 All [male] persons having the physical ability to work,  
3 convicted of vagrancy and imprisoned [on judgment] therefor, may be  
4 required to perform labor on the public works, buildings, grounds or  
5 ways in the county, and the sheriff or other person [or persons] having  
6 them in charge while performing such labor may [, in his discretion.]  
7 employ any usual, reasonable, humane and sufficient means to guard  
8 against and prevent any such prisoner escaping from custody while being  
9 so employed.

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