

The meeting was called to order at 8:05 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 294 Provides for establishing parentage and enforcing support of children.
(See minutes of March 13, 14, 20 and 28 for testimony and discussion)

Testifying on behalf of the Welfare Division are Bill Furlong and Walter Lloyd.

Senator Close stated that they have gone through the bill up to Section 6. They have not as yet agreed to take out "partial performance, obligation to support". There is also a question on the language in the margin about the acknowledgments. This was not in the first draft.

Mr. Furlong stated that this was put in to take care of a problem at the Bureau of Vital Statistics. This allows the mother to be notified that someone has filed an acknowledgment of paternity on her child. In the original one all that was required was the acknowledgment of paternity by the male. It didn't require any review or consent on the part of the mother. Now if the male files, if the mother does not resist that acknowledgment within 60 days, then it becomes a true acknowledgment.

Mr. Lloyd stated that if she does not answer after 60 days, it becomes a presumption. It is not a legitimation in the context of a judicial legitimation. This is obviously rebuttable in court but is still maintained in confidence by the Bureau. You will note in one of the further sections, that in the event you have a proceeding under Chapter 41, independent of this support chapter, the registrar of Vital Statistics is required on notification, that such a procedure is under way, to produce any such documentation for the review of the court. Further in that section, if the mother affirms then we legitimate the child. All of the normal documentary processes begin, such as the publication of a new birth certificate. The collection of all documents are placed in a confidential file.

Senator Close stated there were no changes in Section 7.

Section 8 - "Partial performance" comes out and Subsection F becomes Subsection E. This tracks with Section 6 where this was previously deleted.

Section 9 - This gives the Welfare Dept. the ability to go beyond the three year Statute of Limitations. Mr. Lloyd stated this would be when the Welfare is acting on behalf of the child and that child has an interest. We find that a child coming on welfare, after obtaining the age of three, that the parentage is condition precedent to enforcing the obligation to support. This would give the Welfare Department the ability to adjudicate parentage. We already have a provision that the non-welfare child bring an action within his infancy, which is 18 years, plus three.

Section 10 - This is the long arm statute. Senator Close asked if California didn't do away with this section.

Mr. Lloyd stated that they did, but they had jurisdiction to reach as far as the Federal law would permit. This was far more encompassing than this proposed by Nevada. This statute is based on the time of conception in Nevada and does not reach people moving into this state. If the father comes into this state and performs the act, then he can be held accountable. If this act occurs in Florida, and subsequently the mother comes here, we cannot get jurisdiction within the framework of this set of words.

Section 11 - No changes or comments.

Section 12 - Mr. Lloyd stated that there previously was some question as whether the immunity was "transactional" or "use". In Nevada statute we have transactional immunity, although at first it may sound like use. When you get through with this section it is very clearly transactional and tracks with the NRS Statutes on immunity.

Senator Close stated he felt that should be made clear in this language.

Mr. Furlong stated that on line 16 you could put it in so that it would read, "the court may grant him transactional immunity."

Section 13 - Senator Raggio asked what was the reasoning for the language "any person involved in a controversy." That should be "party" to track with the Uniform Act.

Mr. Lloyd stated that was in the context of where the Welfare Department would be acting on behalf of the child. He agreed that it was broader than the act and so that could be changed. Senator Close stated that that language could be deleted and just leave in "the Court may upon its own motion."

Section 14 - No changes or comments.

Section 15 - Senator Close asked why they were using the term Referee instead of Master.

Mr. Lloyd stated that Uniform Act uses that although Nevada uses the term Master.

Senator Raggio asked why it is a pre-trial hearing in this bill when the Uniform Act calls it an informal hearing.

Mr. Lloyd stated that in the context of most of the procedures in Nevada, there are provisions for a pre-trial hearing, there is no reference to an informal hearing. We end up with and order and if the parties cannot agree, we identify the variances and then the Master or Judge can enter a finding and move forward in the normal procedural manner. We are doing the same thing but if we term it an informal hearing, there might be a question as to its place in the judicial process.

Section 16 - Senator Raggio stated that are you saying that the jury trial should be requested on a responsive pleading being filed, if so that should be stated.

Mr. Lloyd stated that on line 16 you could put in "demands a jury trial following the pre-trial hearing."

Senator Close stated that we could say "20 days following the filing of the pre-trial order".

Mr. Lloyd stated that what they are trying to do is use the pre-trial process of reconciling the issues and avoid the litigation in the formalistic way. You don't know if you are going to have a trial until you have gone through that process.

Section 17 - It was the Committee's consensus to change "father" back to "parent" on line 16.

Sections 18 through 25, no changes or comments.

Section 26 - Mr. Lloyd stated that in Subsection A, line 21 this would amend NRS 128 however, it would affect NRS 126. These may not be the right section citations.

Senator Close stated he would bring this to Mr. Daykin's attention, because there is the same problem on lines 32 and 46.

Sections 27 through 29 - Mr. Lloyd stated that this is cleaning up the versions of what has been previously discussed. In earlier hearings portions of this had been deleted. In trying to track it with the Bureau of Vital Statistics material we came to the conclusion that this was the best place to marry several of these concerns. Senator Sloan asked in taking out the paragraph in Section 28A, how does that affect NRS 41.350.

Mr. Lloyd stated they are taking out the notification being posted in three places in the county, and incorporating the language in NRS 41.530, which references that a person bringing such a proceeding must give notice to the Registrar of the Bureau of Vital Statistics. That officer must bring forward and put into the courts consideration, any confidential

records he may have. Then that can be used as evidence that they may have previously been rejected as being defective and the court has made an order, and then they have to issue the birth certificate.

Senator Ford asked if the Welfare Division was aware of two bills in the Assembly. One of these, AB 278, sets up a new procedure.

Mr. Lloyd stated they were aware of them. One suggests that there is an automatic adoption process, just by merely the filing of a notification and acknowledgement. He felt this was a very frail presumption.

Senator Close stated they should leave those bills with him and he would talk with the Assembly and let them know what the Committee is doing over here.

Section 29 - Mr. Lloyd stated that in the prior statutes the decree was given prima facie status, which is almost unusual. A judicial decree is more than prima facie, it is adjudicated unless you come up with something that indicates it was a defective decree. So we have struck that and left it at its normal standing in the court.

Section 30 - Mr. Lloyd stated that there are two sections dealing with blood tests, one is NRS. 56.010 and the other is NRS 56.020. Subsection 010 is the express provision for the use of blood tests in the illegitimacy proceedings. We propose that be repealed in its entirety, and section 020 be modified as indicated in this bill. This would take into account the several things we discussed, incident to the more sophisticated blood analysis.

Senator Close stated that also on line 14 "adult" should be deleted. On line 15 "or the identity of any child" should be deleted. It would then read "to determine the parentage or identity of a person or corpse."

Section 31 - Senator Close asked what was being taken out on lines 41 thru 46.

Mr. Lloyd stated that if you read that as originally proposed, a good portion of this is now covered in the first 25 sections. This section could give rise to the feeling that there was another procedure required, so we struck that.

Section 32 and 33, no changes or comments.

Section 34 - Senator Close asked why the language was bracketed out on line 30.

Mr. Lloyd stated that we did that originally but then changed it back.

Senator Close stated that the problem is that we have made the change merely by erasing them, so this should be flagged and brought to Mr. Daykin's attention.

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Sections 35 and 36, no changes or comments.

Section 37 - Mr. Lloyd stated that in trying to make a clean copy of this, on line 14 following "public agency", "in another state" should be put back in. Somehow this got left out.

Sections 38 and 39, no changes or comments.

Section 40 - Mr. Furlong stated this was put in because there was a problem with the attorney who thought he represented the mother of the child.

Senator Sloan asked if this was so they could make a disclosure from the District Attorney's office to the Welfare Division. Mr. Furlong stated it seemed inappropriate for the D.A. to represent the people of Nevada and suddenly switch in the middle and start representing the woman.

Senator Sloan stated the problem here is she goes to him in good faith and lays out all the facts. I am sure the attorney is not going to give her a Miranda warning at the outset. You are putting her in a more delicate position and he feels there should be another section and legal process to handle this, so she can say what she wants without them being able to turn around and prosecute her. I would take this section out, or at least narrow it down to the point the the D.A. could make a disclosure to the Welfare Department.

Senator Raggio stated that if you make a disclosure the privilege is waived.

Senator Dodge stated that it would be a limited waiver. Senator Close stated that the Welfare Department has no privilege and they can disclose it.

Mr. Lloyd stated in two cases, the court has without expressed guidance, looked at this and concluded that the real party and interest was the child. The mother's disclosure to the D.A. didn't establish the classical attorney/client relationship.

Senator Raggio stated that if this was put into the law, and he was the lawyer for the father, he would call the D.A. and ask him everything the mother had told him.

Mr. Lloyd stated that this language could be struck and they certainly would be no worse off than they are at present. Senator Dodge asked if there was any other practical way of handling this then the local D.A.

Mr. Lloyd stated that would move the responsibility from one attorney to another and wouldn't really change the issue. Senator Dodge asked if a sentence could be added saying that any disclosures or information could not be the basis for prosecutions. Suppose she discloses a murder?

Senator Raggio stated that the attorney/client relationship only prevents giving testimony over the objection of the client. It doesn't preclude the investigation of a case in other ways.

Mr. Furlong stated that if this would in any way affect the passage of the bill, they would rather go with existing law.

Senator Close stated that it wouldn't affect the bill, the Committee just has to decide what policy to pursue.

Senator Dodge asked if there were anyway for the D.A. to warn the mother in these situations, that any disclosures or collateral information about the commission of a crime, would have to be weighed as far as his responsibility to the State of Nevada.

Senator Close stated what if we leave the language that is here but say that the D.A. must make disclosures of any criminal activities that he may become aware of.

Mr. Lloyd stated that what we have done here is taken a public official and charged him with the prosecution of a civil lawsuit, where if you strip away the veneer, the true party or interest is the child, or anyone standing in the shoes of the child. However, in practice, it frequently looks as if he is representing the mother, hence, you begin to attach vestiges of this attorney/client relationship between the prosecuting attorney and the mother.

Senator Close stated that we could write in here that an affirmative notice be given, so that the privilege would be exempt only in criminal activities.

There were no changes in the remainder of the bill.

Senator Raggio moved that SB 294 be passed out of Committee with an "amend and do pass" recommendation.

Seconded by Senator Sloan.

Motion carried unanimously.

SB 352 Prescribes form of affidavit required to obtain possession of assets of estates valued at less than \$5,000.
(See minutes of March 29, for testimony and action)

John Ciardella, Chief of the Registration Division, Department of Motor Vehicles, stated that he wished to pass out a form which is used to transfer title of vehicles that are in probate. (See Attachment A). He stated he just wanted the Committee to be aware of this and that it would have to be modified.

Senator Close stated the Committee would take this under advisement even though the bill had already been amended and passed out of Committee.

SB 353 Creates presumption that trustee with title has power to sell, convey or encumber real property.

Senator Ashworth stated that this bill came about because of a real problem in Clark County with people entering into irrevocable trusts, transferring the property over to their

names as trustees, and all of a sudden everyone wants to see the trust document. This would make it so that the trust document would not be a document of record.

Senator Close stated he would recommend that this be changed to reflect real as well as personal property.

Senator Dodge stated that perhaps we should say that the person acting on the basis of that presumption should be immune from legal liability.

Senator Ashworth stated that he thought that was already covered by NRS 164. This goes into the general trustee powers and are incorporated by reference.

Senator Close stated he thought that the presumption is less than what we have here. He felt we should take out "presumable" and say "the title of real property taken in the name of the trustee, the trustee has the power."

Senator Dodge stated he would have no objection to limiting this to living trusts.

Senator Close stated that it would then read "The trustee has the power to sell, convey or encumber real or personal property unless the deed or conveyances of the trustee specifically limits his power to do so."

It was also the consensus of the Committee to specify that this would be effective on deeds or conveyances executed after July 1, 1979.

Senator Ford moved that SB 353 be passed out of Committee with an "amend and do pass" recommendation.

Senator Hernstadt seconded.

Motion carried unanimously.

SB 354 Limits certain actions against estates for which no letters of administration have been issued.

Senator Ashworth stated this is to set up a statute of limitations on estates where there are no probate proceedings.

Senator Close stated that right now if you publish the fact that the person is dead, 90 days after that if there is no claim against the state, that is it. This is three years.

Senator Ashworth stated that if the whole estate is in a living trust, how do you cut off creditors.

Senator Close stated, that with this three year thing you are saying the surviving spouse cannot sell the property

for three years.

Senator Ashworth stated that what he is getting at is that some kind of notice be given at least equal to what they get under probate.

Senator Dodge stated he felt the language should be limited to those situations that need to be addressed.

It was the consensus of the Committee that this bill needed more work and Senator Ashworth should bring it back to the Committee when the language was made a little clearer.

SB 355 Provides legal proceeding for confirmation of domicile.

Senator Dodge stated this is an evidenciary method of establishing intent.

Senator Ashworth stated, that this is rebutable and not presumed.

Senator Hernstadt moved that SB 355 be passed out of Committee with a "do pass" recommendation.

Seconded by Senator Ashworth.

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

SB 236 Makes various changes to laws regulating gaming.
(See minutes of ~~February 28~~, March 1 and ~~13~~ ¹⁶ for previous testimony and discussion.)

Senator Close stated they were down to Section 13. We will delete "require the licensee to present."

Senator Hernstadt stated that this is where the ticket sellers are picked up on the next page.

Senator Sloan stated that this is where "value" of goods and services should be put in.

Senator Raggio stated that it states that you can have a continued legal fee, if it is disclosed. I am assuming that some attorneys have contingent agreements on legal fees. I know what they are trying to reach, but I have a real concern over what they say here.

Senator Dodge stated that if you go back to the preceeding page it says, "for termination of suitability by association with a gaming enterprise, such business occurs." That is fairly limiting to normal purveyors or people that are working some way with that industry. If you are in a professional capacity as an attorney, I doubt that would even cover.

Senator Raggio stated, "suppose you are an attorney and you have a retainer of \$5,000 a month. Are we opening the door to try to have them licensed, because you are only doing 10 hours work for this money?"

Senator Hernstadt stated that it does say grossly disproportionate. The case that was brought up was the attorney from out of state, that wasn't even licensed in this state and had received hundreds of thousands of dollars.

Senator Dodge stated he saw nothing wrong with the language. It is not mandated.

Senator Raggio stated that the three people sitting on the board will not always be there.

Senator Dodge stated that there are a lot of things in the gaming act that assumes responsible action on the part of the Board. That is a basic premise that we proceed from on all of their legislation. Their track record is pretty good, and there has been a lot of different people sitting on the Board and Commission since 1959.

Senator Close stated they would then leave C as amended.

Senator Hernstadt moved that SB 236 be passed out of Committee with an "amend and do pass" recommendation.

Seconded by Senator Sloan.

Motion carried unanimously.

The meeting adjourned at 10:50 a.m.

Respectfully submitted,

APPROVED:


Virginia C. Letts, Secretary

Senator Melvin D. Close, Jr., Chairman

AFFIDAVIT FOR TRANSFER OF TITLE TO A
MOTOR VEHICLE PURSUANT TO NRS 146.080

Before the undersigned Notary Public came _____

_____, who, after being duly sworn, states and deposes
as follows:

That on the _____ day of _____, 197_____,
_____, a resident of the State of Nevada,
died leaving no real property or interest therein, nor lien thereon, situated
in the State of Nevada.

That the total value of decedent's property, situated in the State of
Nevada, does not exceed FIVE THOUSAND (\$5,000.00) DOLLARS (excluding amounts
due decedent for service in the armed forces).

Affiant states that his relationship to the above-named decedent is
that of _____. Affiant further states that he
is entitled to have the title in decedent's motor vehicle, vehicle identification
number _____, make _____, model _____,
and year _____, transferred to Affiant for the reason that Affiant is

_____.

Affiant finally states that more than forty (40) days have passed since
the death of the decedent as evidenced by a Certified copy of the death certificate
attached hereto.

Further Affiant saith not.

SUBSCRIBED and SWORN to before me
this _____ day of _____,
197_____.

NOTARY PUBLIC

SENATE BILL NO. 236—COMMITTEE ON JUDICIARY

FEBRUARY 15, 1979

Referred to Committee on Judiciary

SUMMARY—Makes various changes to laws regulating gaming. (BDR 41-485)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: Contains Appropriation.

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

AN ACT relating to the licensing and control of gaming; making various changes to the laws regulating gaming; making an appropriation; 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 463.011 is hereby amended to read as follows:
2 463.011 "Game" or "gambling game" means any banking or per-
3 centage game played with cards, dice or any mechanical device or
4 machine for money, property, checks, credit or any representative of
5 value, including, without limiting the generality of the foregoing, faro,
6 monte, roulette, keno, bingo, fan-tan, twenty-one, blackjack, seven-and-
7 a-half, big injun, klondike, craps, [stud poker, draw] poker, *chuck-a-*
8 *luck, Chinese chuck-a-luck (dai shu), wheel of fortune, chemin de fer,*
9 *baccarat, sic bo, pai gow, beat the banker, panguingui* or slot machine,
10 but [shall] *does* not include social games played solely for drinks, or
11 cigars or cigarettes served individually, games played in private homes
12 or residences for prizes or games operated by charitable or educational
13 organizations which are approved by the board pursuant to the provisions
14 of NRS 463.409.

15 SEC. 2. NRS 463.075 is hereby amended to read as follows:
16 463.075 [1.] The board shall [be organized in three functional
17 divisions: Administrative, fiscal and surveillance.

18 2. The administrative division, under the supervision of the executive
19 director and the executive secretary, shall perform all general adminis-
20 trative and clerical functions of the board and the commission, including
21 maintenance of files and records, budgeting, personnel administration
22 and purchasing, and shall provide all necessary clerical and other services
23 to the commission and the other divisions of the board.

24 3. The fiscal division, under the supervision of the fiscal director,

SENATE BILL NO. 294—COMMITTEE ON JUDICIARY

MARCH 2, 1979

Referred to Committee on Judiciary

SUMMARY—Provides for establishing parentage and enforcing support of children. (BDR 11-368)

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 parentage; providing for the establishment of parentage; providing for enforcement of obligations of support of children; and providing other matter properly relating thereto.

1 WHEREAS, The failure of parents to provide adequate financial sup-
2 port and care for their children is a major cause of financial dependency
3 and a contributing cause to social delinquency; and

4 WHEREAS, The present remedies are slow and uncertain, and result in
5 a burden on the resources of the state, which must provide public assist-
6 ance for basic maintenance when parents fail to meet their obligations;
7 and

8 WHEREAS, It is the duty of the state to conserve money for public
9 assistance by providing reasonable and effective means to enforce the
10 obligations of persons who are responsible for the care and support of
11 their children; and

12 WHEREAS, Determination of parentage is necessary to effective enforce-
13 ment of that responsibility; now, therefore,

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

16
17
18 SECTION 1. Chapter 126 of NRS is hereby amended by adding
19 thereto the provisions set forth as sections 2 to 26, inclusive, of this act.

20 SEC. 2. *This chapter applies to all persons, no matter when born.*

21 SEC. 3. *As used in this chapter, unless the context otherwise requires:*

22 1. *"Custodial parent" means the parent of a child born out of wed-*
23 *lock who has been awarded custody of the child or, if no custody award*
24 *has been made by a court, the parent with whom the child resides.*

25 2. *"Nonsupporting parent" means the parent of a child born out of*
26 *wedlock who has failed to provide an equitable share of his child's nec-*
27 *essary maintenance, education and support.*

Original bill is 15 pages long.
Contact the Research Library for
a copy of the complete bill.

SENATE BILL NO. 353—SENATOR DON ASHWORTH

MARCH 22, 1979

—○—
Referred to Committee on Judiciary

SUMMARY—Creates presumption that trustee with title has power to sell, convey or encumber real property. (BDR 13-1420)

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 the administration of trusts; creating a presumption that a trustee has the power to sell, convey or encumber real property to which he has title; 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 164 of NRS is hereby amended by adding
2 thereto a new section which shall read as follows:
3 *When title to real property is taken in the name of a trustee, it is*
4 *presumed that the trustee has the power to sell, convey or encumber the*
5 *real property unless the deed of conveyance to the trustee specifically*
6 *limits his power to do so.*

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SENATE BILL NO. 355—SENATOR DON ASHWORTH

MARCH 22, 1979

Referred to Committee on Judiciary

SUMMARY—Provides legal proceeding for confirmation of domicile. (BDR 3-1423)

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 actions concerning persons; providing a legal proceeding for confirmation of domicile in Nevada or another state; 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 41 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 to 5, inclusive, of this act.
3 SEC. 2. 1. *Any person who has established his domicile in this state*
4 *may manifest and evidence his domicile by filing in the office of the clerk*
5 *of the district court for the county in which he resides, a sworn statement*
6 *showing that he resides in and maintains a residence in that county, which*
7 *he recognizes and intends to maintain as his permanent home.*
8 2. *Any person who has established a domicile in this state, but who*
9 *maintains another residence in some other state, may manifest and evi-*
10 *dence his domicile in this state by filing in the office of the clerk of the*
11 *district court for the county in which he resides, a sworn statement that*
12 *his residence in Nevada constitutes his predominant and principal home,*
13 *and that he intends to continue it permanently as his predominant and*
14 *principal home.*
15 3. *A sworn statement filed pursuant to this section must contain, in*
16 *addition to the declaration required in subsection 1 or 2, a declaration*
17 *that the person making the statement is at the time of making the state-*
18 *ment a bona fide resident of the state, and it must set forth his place of*
19 *residence, the city, county and state in which he formerly resided, and all*
20 *other places, if any, in which he maintains a residence.*
21 SEC. 3. 1. *A person who:*
22 (a) *Is or was domiciled in a state other than Nevada and who:*
23 (1) *Has a residence in Nevada; or*

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