

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

For testimony and further discussion of this measure, see the minutes of the meetings for March 15, 28 and 29, 1979.

Richard Garrod, Special Representative, Farmer's Insurance Group, and Leonard Blonder, Walker and Sullivan (an excess insurance brokerage firm) testified in support of this measure.

Mr. Garrod stated that in states with structured verdicts, the insurance premium rates had stabilized.

Mr. Blonder concurred and further stated that in states with structured verdicts, the availability of structured settlements had also increased.

Mr. Blonder expressed concern over two sections of the bill. Section 4, although it does not preclude the use of an annuity, it does not actually address it.

In Section 6, where it says "except as provided in subsection 2, the court may, for good cause shown, modify judgment..." He stated that the problem with that is that it precludes the use of an annuity. He felt that that clause would prevent a casualty company from purchasing an annuity because they would never know if they would have to add additional monies to the account.

No action was taken at this time.

AB 457 Enables court to order restitution as additional penalty for crimes against property.

Bob Miller, Clark County District Attorney, testified in support of this measure. He stated that this would require that restitution be made in an amount determined by the court.

He felt that was an appropriate safeguard and that it would allow the court to utilize its contempt powers or part of its sentencing powers to provide that the money be repaid.

Senator Dodge asked what would be the need for subsection 2. He stated that subsection 1 would make it a permissible procedure and at the same time, not rule out any other procedure in the law.

Senator Raggio asked how this would be enforced.

Mr. Miller responded that it would be done through the department of Parole and Probation. It could be made a condition of parole. If there was no willful attempt on the part of the individual to make restitution, revocation proceedings could be instigated.

Senator Raggio questioned the constitutionality of that.

Mr. Miller stated that the constitutional prohibition relates only to incarceration of an indigent in lieu of sentencing.

Senator Close stated that at the present time, restitution can be made a condition of probation. He asked what additional leeway this bill would offer.

Mr. Miller responded that this would make restitution a condition precedent to parole.

Senator Close asked who was going to be keeping track of whether or not the person was making restitution. The bill is silent in that regard.

Mike Malloy, Assistant District Attorney, Washoe County, concurred with Mr. Miller's comments.

Senator Raggio asked how this would affect the victim's right to bring a civil action for damages against the defendant.

Mr. Malloy responded that he believed any civil action would be mitigated by whatever amounts the victim had been paid in restitution because that amount of the civil action would have been exhausted already.

Senator Raggio stated that he had some problems with the bill and requested that Messrs. Malloy and Miller research the following areas: whether this has the force of a judgment; whether it is enforceable by revocation of parole or probation; whether this refers to restitution or compensation; and whether it mitigates a civil judgment.

No action was taken at this time.

AB 265 Changes conduct of examination of prospective jurors in criminal cases.

Bob Miller, Clark County District Attorney, testified that this bill provides an allowance by rule of an expansion of the questions that might be asked by counsel. At the present time, it is not clear just who asks what questions in voir dire. This would provide that the judge has that authority.

Mike Malloy, Assistant District Attorney, Washoe County, testified in support of this measure. He stated that voir dire was one of the most important aspects of any trial, from both the defense and prosecuting standpoint.

Senator Close stated that when this bill was adopted a few years ago, the testimony then indicated that trials were unduly prolonged because each attorney had the right to ask innumerable questions during voir dire.

Mr. Miller stated that the judge has the ability, when he feels there is an abuse, to call counsel to the bench and tell him that his voir dire should come to an end.

No action was taken at this time.

There being no further business, the meeting was adjourned.

Respectfully submitted,

  
\_\_\_\_\_  
Cheri Kinsley, Secretary

APPROVED:

\_\_\_\_\_  
Senator Melvin D. Close, Jr., Chairman