

Library

MEMBERS PRESENT: Chairman Stewart
 Vice Chairman Sader
 Mr. Thompson
 Ms. Foley
 Mr. Beyer
 Mr. Price
 Mr. Chaney
 Mr. Malone
 Mrs. Cafferata
 Ms. Ham
 Mr. Banner

MEMBERS ABSENT: None

GUESTS PRESENT: None

Chairman Stewart called the meeting to order at 8:05 a.m. He noted that the first order of business would be SB 106.

SB 106: Makes technical correction concerning affidavits in small claims.

Chairman Stewart explained that in all matters a notary can place an individual under oath and make that person's affidavit, except in this one Chapter, which says a notary public has to be one commissioned by the Governor. This is very unusual and it is probably the only place it appears in the statutes. Normally a notary receives a certificate from the Secretary of State only. SB 106 is simply an attempt to clean up this oversight and take out the reference to the Governor in this particular case.

Ms. Ham asked if it were noted elsewhere in the statutes that the Secretary of State commissions rotary publics. Mr. Stewart replied that this does already appear in the statutes, and he cited NRS Chapter 240.

Mr. Beyer moved DO PASS SB 106, seconded by Mr. Chaney, and passed unanimously.

The next item on the agenda was SB 108.

SB 108: Reconciles penalties prescribed for possession of another's credit card.

Chairman Stewart noted that there is a slight conflict between this statute, which apparently was amended last session, and NRS 205.700, which provides a gross misdemeanor when an individual obtains a credit card which has been mislaid or lost and retains that card with the intent to transfer it to

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another individual. He noted that this section makes it a felony if an individual obtains a credit card without the consent of the card holder with the intent to circulate, use, sell or transfer it to another individual. Mr. Stewart pointed out that the only difference between the two sections is the manner in which the card is acquired; and perhaps, to some extent, the intent.

Mr. Stewart explained further that if the card has been lost, or mislaid, and an individual finds it, it is not as serious as if the individual had stolen it.

Ms. Ham said she could see where a good defense lawyer would plead to the lesser charge, and try to prove that the client had no intention of stealing the card.

Mr. Stewart reiterated that NRS 205.700 is a gross misdemeanor; SB 108 concerns a felony, and in section 3 provides for presumption.

In reply to Mr. Malone, Mr. Stewart said the purpose of the bill is to clarify that not all cases in which an individual possesses credit cards not belonging to him with the intent to use the cards wrongly are felonies. In some cases, for example if the card is obtained because it has been lost or mislaid, the crime is considered a gross misdemeanor.

Mr. Malone said that, in other words, the only reason the bill is being amended is to clarify this difference. Mr. Stewart replied in the affirmative.

Ms. Ham moved DO PASS SB 108, seconded by Mr. Chaney, and passed unanimously.

SB 109: Removes conflict between statutory provisions which impose different penalties for similar assaults and batteries.

Chairman Stewart explained that those statutes dealing with assault and battery have varying degrees of penalty; if there is bodily injury, the penalty increases; if there is use of a deadly weapon, the penalty increases; and if the assault is committed on a peace officer, the penalty increases. SB 109 is an attempt to clear up some confusion as to when the various penalties apply.

Page 2, lines 20 and 21: Mr. Stewart noted that the original version of the bill does not allow for all the misdemeanor batteries; as amended, the bill gives Justices' courts jurisdiction over all assaults and batteries which constitute misdemeanors.

Page 2, line 31: Mr. Stewart noted it was assumed that the Patrolman would be acting pursuant to his duties; thus, this

wording is redundant and unnecessary.

Page 2, lines 40-46: This exception was necessary because in NRS 200.481 there are instances in which if you interfere with a public officer it is a felony rather than a gross misdemeanor.

Mr. Sader asked what was the definition of an administrative or executive officer, and did this include peace officers. He also wondered what other categories of persons were included. Mr. Stewart replied that this did include peace officers, as well as those individuals whose office is defined in the executive branch or in an administrative capacity either in the statute or by ordinance.

Page 3, lines 11-13: Again, this portion simply clarifies when certain penalties apply.

Mrs. Cafferata moved DO PASS SB 109, seconded by Mr. Thompson, and passed unanimously.

Chairman Stewart then asked the Committee to consider AB 3.

AB 3: Provides for abandonment of fictitious name and makes certain other changes to requirements for conducting business under a fictitious name.

Mr. Stewart stated he felt it important that notices be sent out when the certificates have expired, and he would be willing to raise the price from \$5.00 to \$7.00 to cover that cost. He did not feel this price to be too high, and he said it was a service that would undoubtedly be appreciated by those who file a fictitious name.

Mr. Stewart also suggested that there be a provision to allow publication when they do not have an address on the certificate; otherwise, it should be mailed to the address shown on the certificate.

Mrs. Cafferata said she would like to see lines 26-29 on page 2 deleted; it should apply to those groups also, but she was not certain they should be charged. Mrs. Cafferata felt the names for these organizations should also expire, as this would help to clean up that part of the file system too.

Mr. Beyer pointed out that if this section is removed, then line 18, page 2 "except as provided in subsection 2" would also have to be changed.

Mr. Malone suggested line 13, page 2 "shall notify" be changed to "may notify", in order to give the clerk an option. Mr. Stewart replied he would prefer to see the price raised to cover the cost of the mailing, and have notification be required.

A discussion ensued as to whether or not charitable organizations, 388

which currently are not charged, should be charged. The question was raised as to whether eleemosynary groups could be charged, since they are exempt from so many other fees and/or taxes, and whether they might fight such a fee in court.

Following agreement by the Committee, Chairman Stewart requested Mr. Sader look into the possibility of amending the bill 1) to include nonprofit corporations and associations under its provisions; 2) to exempt these charitable organizations from being charged a fee; 3) to raise the filing fee to \$7.00; and 4) to allow publication when the address does not appear on the certificate.

The Committee also agreed that the 5 year time frame was appropriate.

Chairman Stewart said he would request the amendments and then return the bill to the Committee for further review.

AB 6: Makes certain changes relating to destruction of public records by clerk of court.

Chairman Stewart noted there was one point in this bill which should be discussed: it affects the county clerk's option as to when she can destroy these records.

Mr. Stewart said he had also received a request from the City of Las Vegas that the Committee include a provision in the bill to allow the municipal courts to do the same thing.

Chairman Stewart reviewed some of the points made during earlier testimony by the county clerk, and said he felt them to be valid.

Chairman Stewart then read a portion of a letter from District Judge Michael E. Fondi which concerned AB 6 (see EXHIBIT A) for the record.

Chairman Stewart felt it to be a good idea to include municipal courts in this bill.

The Committee seemed to be in general agreement that as long as the records were microfilmed prior to destruction, there was no problem with this bill.

Mr. Banner moved AMEND AB 6 to include municipal courts, seconded by Mr. Malone, and passed unanimously.

Mr. Malone moved DO PASS AS AMENDED AB 6, seconded by Ms. Foley, and passed unanimously.

As there was no further business, the meeting adjourned at 8:45 a.m.

Respectfully submitted,

Pamela B. Sleeper

Pamela B. Sleeper
Assembly Attache

61st NEVADA LEGISLATURE
ASSEMBLY JUDICIARY COMMITTEE
LEGISLATION ACTION

DATE: Monday, 16 February 1981

SUBJECT: SB 106: Makes technical correction concerning affidavits in small claims.

MOTION:

DO PASS XX AMEND INDEFINITELY POSTPONE
RECONSIDER

MOVED BY: BEYER SECONDED BY: CHANEY

AMENDMENT:

MOVED BY: SECONDED BY:

AMENDMENT:

MOVED BY: SECONDED BY:

VOTE:	MOTION		AMEND		AMEND	
	YES	NO	YES	NO	YES	NO
Thompson	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Foley	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Beyer	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Price	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Sader	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Stewart	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Chaney	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Malone	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Cafferata	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Ham	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Banner	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
TALLY:	<u>11</u>	<u>0</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

ORIGINAL MOTION: Passed XX Defeated Withdrawn
 AMENDED & PASSED AMENDED & DEFEATED
 AMENDED & PASSED AMENDED & DEFEATED

ATTACHED TO MINUTES OF Monday, 16 February 1981

61st NEVADA LEGISLATURE
ASSEMBLY JUDICIARY COMMITTEE
LEGISLATION ACTION

DATE: Monday, 16 February 1981

SUBJECT: SB 108: Reconciles penalties prescribed for possession of another's credit card.

MOTION:

DO PASS XX AMEND _____ INDEFINITELY POSTPONE _____
RECONSIDER _____

MOVED BY: HAM SECONDED BY: CHANEY

AMENDMENT:

MOVED BY: _____ SECONDED BY: _____

AMENDMENT:

MOVED BY: _____ SECONDED BY: _____

VOTE:	MOTION		AMEND		AMEND	
	YES	NO	YES	NO	YES	NO
Thompson	<u>X</u>	—	—	—	—	—
Foley	<u>X</u>	—	—	—	—	—
Beyer	<u>X</u>	—	—	—	—	—
Price	<u>X</u>	—	—	—	—	—
Sader	<u>X</u>	—	—	—	—	—
Stewart	<u>X</u>	—	—	—	—	—
Chaney	<u>X</u>	—	—	—	—	—
Malone	<u>X</u>	—	—	—	—	—
Cafferata	<u>X</u>	—	—	—	—	—
Ham	<u>X</u>	—	—	—	—	—
Banner	<u>X</u>	—	—	—	—	—
TALLY:	<u>11</u>	<u>0</u>	—	—	—	—

ORIGINAL MOTION: Passed XX Defeated _____ Withdrawn _____
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ATTACHED TO MINUTES OF Monday, 16 February 1981

61st NEVADA LEGISLATURE
ASSEMBLY JUDICIARY COMMITTEE
LEGISLATION ACTION

DATE: Monday, 16 February 1981

SUBJECT: SB 109: Removes conflict between statutory provisions which impose different penalties for similar assaults and batteries.

MOTION:

DO PASS XX AMEND INDEFINITELY POSTPONE
RECONSIDER

MOVED BY: CAFFERATA SECONDED BY: THOMPSON

AMENDMENT:

MOVED BY: SECONDED BY:

AMENDMENT:

MOVED BY: SECONDED BY:

VOTE:	MOTION		AMEND		AMEND	
	YES	NO	YES	NO	YES	NO
Thompson	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Foley	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Beyer	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Price	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Sader	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Stewart	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Chaney	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Malone	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Cafferata	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Ham	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Banner	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
TALLY:	<u>11</u>	<u>0</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

ORIGINAL MOTION: Passed XX Defeated Withdrawn
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ATTACHED TO MINUTES OF Monday, 16 February 1981

61st NEVADA LEGISLATURE
ASSEMBLY JUDICIARY COMMITTEE
LEGISLATION ACTION

DATE: Monday, 16 February 1981

SUBJECT: AB 6: Makes certain changes relating to destruction
of public records by clerk of court.

MOTION:

DO PASS XX AMEND INDEFINITELY POSTPONE
RECONSIDER

MOVED BY: MALONE SECONDED BY: FOLEY

AMENDMENT:

Amend to include municipal courts.

MOVED BY: BANNER SECONDED BY: MALONE

AMENDMENT:

MOVED BY: SECONDED BY:

VOTE:	MOTION		AMEND		AMEND	
	YES	NO	YES	NO	YES	NO
Thompson	<u>X</u>	<u> </u>	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Foley	<u>X</u>	<u> </u>	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Beyer	<u>X</u>	<u> </u>	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Price	<u>X</u>	<u> </u>	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Sader	<u>X</u>	<u> </u>	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Stewart	<u>X</u>	<u> </u>	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Chaney	<u>X</u>	<u> </u>	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Malone	<u>X</u>	<u> </u>	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Cafferata	<u>X</u>	<u> </u>	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Ham	<u>X</u>	<u> </u>	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Banner	<u>X</u>	<u> </u>	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
TALLY:	<u>11</u>	<u>0</u>	<u>11</u>	<u>0</u>	<u> </u>	<u> </u>

ORIGINAL MOTION: Passed Defeated Withdrawn
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ATTACHED TO MINUTES OF Monday, 16 February 1981



First Judicial District Court
Carson City & Storey County
State of Nevada

Michael E. Fondi
District Judge

February 4, 1981

198 N. Carson Street
Carson City, Nevada 89701
(702) 882-1619

TO: Mr. Jim Joyce
FROM: Michael E. Fondi, District Judge
RE: Pending legislation

Jan has given me copies of several bills which you requested I give you my reaction to while I was in trial in Reno. It was difficult for me to review the legislation at that time and send you my reply. I have since had an opportunity to review several pieces of legislation and discuss some of them with Jim Guinan. For what it is worth, here are my suggestions regarding the bills you brought to my attention as well as a few others that I have noted in the meantime.

ASSEMBLY BILLS:

A.B. 4: This bill to increase fees for official reporters of the District Courts cannot be lived with in its present form. No doubt the Court Reporters are entitled to some increase in fees, but the proposal to increase from \$50 to \$200 per day and \$32 per hour or fraction thereof is just simply not warranted.

I believe reporters in the State of California are making \$100 per day, and I would suggest that the sum of \$75 is probably closer to realistic than any of the other figures mentioned above.

By the same token \$10 per hour for each hour or fraction thereof is also probably realistic up to a maximum of \$75 or even \$80 as a compromise which can be mathematically computed.

I have already delivered a memo to our City Manager regarding this piece of legislation which would substantially affect the budgets of the District Courts which have already been submitted for Court Reporter services.

A.B. 6 This bill makes certain changes relating to the destruction of public records by the Clerk of the Court. I personally find nothing offensive about

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this particular piece of legislation; however, many District Judges would probably prefer to have an amendment wherein any records less than five years of age could be destroyed after microfilming only with the permission of the District Court Judge who is the Chief Judge of the county of the district involved.

By adding this particular provision, we would establish another area in which District Judges could justify additional compensation for additional duties not heretofore contemplated by law. It is obvious that we cannot continue to accumulate masses of files and paperwork without soon running out of room if we don't adopt such legislation.

A.B. 18

This bill clarifies jurisdiction of Judges of Juvenile Courts insofar as providing for restitution by juveniles to the victims of crimes that they commit. I personally am entirely in favor of this type of legislation so long as it provides some discretion by the District Court Judge to analyze each particular situation in light of its circumstances. In fact, Carson City is already engaged in such a program as are probably most of the Juvenile Courts in the State where work hours of one type or another are performed by the juvenile offender for purposes of earning income to make restitution to victims of the juvenile offender.

A.B. 19

This bill authorizes Youth Services Division of the Department of Human Resources to require submission of statistics on juvenile offenses, and particularly to require the District Judges and other county officials to report statistics to that division.

Both Judge Guinan and myself feel that this bill is clearly unconstitutional on its face insofar as it provides for rule making authority by an executive agency of government over a judicial agency of government.

If such statistics are desired from the District Courts, then it should be the function of the District Court Clerks to provide such statistics, not the District Court Judges.

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Another factor which should be pointed out is that the gathering of statistics for the purpose of simply gathering them without stating why or what the ultimate goals are seems like a meaningless bureaucratic gesture.

SENATE BILLS:

- ✓ S.B. 32 This bill requires Juvenile Judges and Masters to attend National College of Juvenile Justice.

I personally see nothing wrong with requiring education for newly appointed and elected judges who fulfill the responsibilities specified in the bill. However, it seems that if such education is going to be required by state statute, then there should be provision for compensation or payment of the fees connected with acquiring such education by the State rather than local governments. A point to keep in mind with this particular bill is that the interim study committee on Juvenile Court System and Youth Services is making a substantial number of recommendations regarding Juvenile Courts, Juvenile Services and Juvenile Parole and Probation.

A number of the judges who may ultimately fall under this particular act would be judges from a single judge judicial districts who have no Special Masters to assist them in the performance of their duties. Therefore, it would be more logical to have the State pick up the cost of educating a State Officer or his designee if he has a Special Master, rather than to attempt to allocate the costs to the several counties which are represented.

- S.B. 118 This bill prohibits the use of the list of registered voters for selection of jurors and increases fees for jurors. I find the first part of this bill particularly objectionable. To eliminate the registered voter lists from use for juror selection would automatically eliminate the more responsible segment of the community from possible juror service. People who think enough of their civic responsibilities and rights to register

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to vote are people you would rather have for jury service than people who deliberately avoid registering to vote in an effort to avoid jury service.

I am also aware of no other singular resource for prospective jurors which could replace this list. At the present time Carson City and I am sure other counties use several resources including registered voter lists, Sierra Pacific Power lists and Department of Motor Vehicle lists. This bill was introduced last session also and at least this portion of it was defeated.

The portion of S.B. 118 which I am entirely in favor of is the portion increasing the sums payable to jurors and prospective jurors for service. The sums suggested are far more reasonable than those heretofore allowed.

SENATE JOINT RESOLUTIONS:

S.J.R. 14 This bill proposed to amend the Nevada Constitution to permit appointment of Judges Pro Tempore in certain circumstances. I am strongly opposed to this particular joint resolution. It makes judges out of people who are not judges and does not provide Courtrooms to perform their judicial duties within. If this is meant to be a substitute for amending the constitutional limitation on increasing the number of judges, it is an extremely poor one. I would be much happier to see Question 2, which was defeated on the ballot, introduced again for consideration by the voters and by the time it gets there hope that the adverse publicity generated by the recent Supreme Court squabbles has been long forgotten.

If you would like any additional comments on any of these bills, or if you would like my assistance in the way of testimony, I would be happy to try to work those matters into my calendar. Judge Guinan said it would be much more difficult for him to personally appear during this session than before. So hopefully my proximity to the Legislature will allow me to speak on such matters when it is deemed necessary.

Thank you very much for keeping me advised and soliciting my opinion on various pieces of legislation.