

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

MEMBERS ABSENT: None

GUESTS PRESENT: Steve Robinson, Department of Prisons  
R. Bayer, Department of Prisons  
Wiley F. Peebles, Dept. Parole & Probation  
Carolyn Mann, Mental Hygiene & Mental Retardation  
Ken Sharigian, Mental Hygiene & Mental Retardation  
Robert Linderman, ACLU of Nevada  
Mark S. McGuire, Nevada Humane Society  
Dr. James Dale, Nevada Humane Society  
Pete Kelley, Nevada Bail Bondsmen

Chairman Stewart called the meeting to order at 8:05 a.m. and asked for testimony on SB 248.

SB 248: Establishes definite duration for civil commitment in certain criminal cases and provides for review and renewal by court.

Ken Sharigian, Deputy Administrator of the State Division of Mental Hygiene and Mental Retardation, stated that SB 248 was introduced by his division and has been significantly amended by the Senate. Essentially, the bill does three things. On page 1, lines 11-13, the bill states that a person found not guilty by reason of insanity under NRS 175 is placed specifically on a civil commitment under NRS 433A and that in placing this person on a civil commitment, the court must explore less restrictive alternative placement as is presently the case for civil commitments. Mr. Sharigian stated this language was suggested by Judge Babcock who felt there was a constitutional problem with the present statute. Under the present statute, if there is a finding of not guilty by reason of insanity, the person is automatically sent to the custody of the MH/MR Division but does not clearly specify that the person is to be treated as a civil commitment with the same rights as a civil commitment.

Mr. Sharigian stated that Section 2 on page 1 is more operative language. Subparagraph 1 essentially states that there shall be for people not guilty by reason of insanity a 6 month review by the division and the judiciary. Every 6 months there must be a report to the court, which then impanels a sanity commission to evaluate the findings of the division. This was a suggestion by the judiciary in Clark County. At the present time, someone could be discharged without judicial review.

Section 3, page 2, lines 22-28, refers to persons not competent to stand trial. Mr. Sharigian referred to the Jackson v. Indiana problem of having indefinite time limits on persons held as not competent to stand trial. This language suggests that a person who is not competent to stand trial can be kept in that status for 6 months. At the end of the 6 months, the Division must petition for a re-commitment for another 6 months. Mr. Sharigian stated this language was added by the Senate.

Mr. Sader commented that this bill would have to be coordinated with AB 425.

Robert Linderman of the American Civil Liberties Union stated that his organization supports SB 248 which provides certain constitutional safeguards such as periodic review for people who are found not guilty by reason of insanity. It also provides sufficient protection for the community due to the set-up of the review. He stated his organization also favors the provision for placing the person in the least restrictive environment.

SB 257: Changes certain provisions on restitution by offenders to victims of crimes.

Wiley Peebles of the Department of Parole & Probation stated that his Department favors SB 257. He indicated that this bill was requested at the recommendation of the State Auditors. There has been no provision of the law to disburse funds that fall into this category. Over a period of years it has accumulated and is continuing to accumulate. It was his recommendation that these funds go into a reserve for statutory contingency, specifically earmarked for aid to victims of crime under the provisions of Chapter 217. Mr. Peebles stated that initially this would amount to approximately \$5,000 being transferred to the fund and anticipated a sum of less than \$1,000 per year going into the fund in the immediate future. It was felt that this is an appropriate place for these funds since it is in line with the theory of restitution and aids to victims of crime. Mr. Peebles expressed the concern that if put into the General Fund it might conceivably be recovered by the offender who made restitution if the victim could not be located.

Mr. Peebles explained that the money going into this fund would be that restitution where the victim could not be located within 3 years after the offender has been released from supervision.

John Crossley, the Legislative Auditor, stated that this bill emanated from his audit report of June 30, 1976 and does represent money collected from probationers as restitution and is not money due the State of Nevada. At that time there was \$1,200 and at this time is up to \$5,000. It was felt that this legislation would assist the accounting. Referring to Section 3, Mr. Crossley stated that previously this money was paid from the emergency fund for restitution ordered by the Board and had nothing to do with the money addressed in other bills. He explained that restitution does not fit with the definition of the emergency fund. The emergency fund definition is for invasion, insurrection, riot, epidemic or natural disaster. It is appropriate for this money to be put into the reserve to statutory contingency fund. Both of those funds are generally funded by General Fund appropriations because they are available for other uses. This money should not go into the General Fund if the victim cannot be found.

Mr. Crossley explained that the statutory contingency fund covers a multitude of things such as fees for indigent prisoners, the return of probation violators, cost of indigent prisoners, in lieu property taxes, etc. It is called a contingency fund since it is a trust fund that must go through certain rules and regulations of the Board of Examiners before being paid out. It is a fund that pays for costs which are not budgeted in many cases.

Mrs. Cafferata moved DO PASS SB 257 in accordance with the recommendations of the Legislative Counsel Bureau as to which fund the money should go to, seconded by Mr. Malone, and carried unanimously, Mr. Price being absent.

SB 306: Extends limitation on commencement of criminal action for gross misdemeanor.

Brian Hutchins, Deputy Attorney General - Criminal, stated that the Attorney General supports this bill. He explained that the first section amends NRS 171.090 by increasing the statute of limitations for gross misdemeanors to two years after the commission of the act. The second section amends NRS 171.095 by closing a loophole where only statutes of limitations for felonies and misdemeanors committed in secret may be increased. There was previously no provision for gross misdemeanors committed in secret. The increase in the regular statute of gross misdemeanors would demonstrate a consistency by the legislature in its belief that gross misdemeanors are worse than simple misdemeanors but not quite as bad as felonies. This would be consistent with the present

punishments for these crimes as prescribed in Chapter 193. Misdemeanors are presently punishable by no more than 6 months in jail and fine of not more than \$500. Gross misdemeanors are punishable by not more than 1 year in jail, fine of not more than \$1,000. Unspecified felonies are punishable by anywhere from 1 to 6 years with a fine of not more than \$5,000.

Mr. Hutchins explained that an example of a crime committed in secret are the frauds and the more sophisticated crimes that are not to the level of felonies.

Mr. Malone moved DO PASS SB 306, seconded by Mr. Beyer, and carried unanimously, Mr. Price being absent.

SB 310: Revises procedures for release without bail.

Robert Linderman of the American Civil Liberties Union stated that the ACLU supports SB 310. It was felt that this bill will provide a vast improvement over the present situation since it would allow people to be released on their own recognizance under certain circumstances as set out in Section 4. The decision would be made by a court. The U.S. Constitution is very clear to the concept that people are considered innocent until proven guilty. This bill reaffirms that concept and allows individual decisions to be made by a judge so that there is a safeguard to hold certain persons in jail who do not have ties to a community, etc.

Mr. Linderman commented that this bill might also alleviate the congestion in some of the jails and reduce the expenses to the jails.

Mr. Linderman continued by saying that this bill provides guidelines for the judge to work with in justifying an OR release. He felt this would be a step towards gaining more equal treatment for these people.

Miss Foley commented that the bill appears to take the judge out of the picture as far as giving discretionary OR's. Mr. Linderman commented that it would allow the sheriff or chief of police to release people only for misdemeanors according to these standards. It was Miss Foley's feeling that victims of these misdemeanors would be pretty upset over someone being released without the involvement of a judge. Mr. Linderman felt the sheriffs and chiefs of police would act responsibly in making these decisions.

Mr. Sader questioned lines 29-31 where it says that if a person fails to appear when so ordered, he waives all rights to delay extradition proceedings. He asked if a defendant could waive all extradition rights before he has jumped bail.

Senator Mel Close appeared to respond to the questions of the committee. Mr. Sader asked where the language came from. Senator Close stated that a portion came from the American Bar Association guidelines. This bill was intended to be more restrictive on release of persons on bail than more liberal. Even if all of the requirements of the bill are not met, the judge can still use his discretion in releasing someone.

Mr. Sader next asked about the waiver of extradition clause. Senator Close stated he was aware of no statutory or constitutional provision which would preclude the inclusion of this provision. In Mr. Daykin's opinion this could be done. Senator Close felt it appropriate for someone released on his own recognizance to promise to appear and waive extradition.

Miss Foley commented that she had talked with a judge who stated the jails are letting just about everyone out on misdemeanors without taking these precautions. This bill merely provides guidelines for them to utilize in releasing individuals. It was pointed out that the only situation in which a sheriff can release someone on his OR is in the case of misdemeanors.

Pete Kelley, representing the Nevada Bail Bondsmen, stated that his organization supports the bill as amended but not as it was originally drafted. He noted that the support is basically as a result of the criteria put in on Section 4, page 2, which tightens up the requirements. He referred to line 49 on page 2 which requires looking into a prior criminal record.

Chairman Stewart appointed a sub-committee to look into the bill further consisting of Mr. Sader, Miss Foley and Mr. Malone.

SB 403: Increases penalty for dog fighting.

Dr. James Dale, Executive Director of the Nevada Humane Society, stated that the Humane Society strongly favors SB 403. Due to the tremendous increase in reports after the fact coming into their investigative department on activities involving animal fighting ventures, coupled with the fact that many of the states in our region (California, Arizona & New Mexico) have increased penalties from misdemeanor to felonies, Nevada has become a haven for these activities. He stated there is evidence of increased activities. The problem faced is that of lack of punishment to fit the crimes. It was noted that the bill was amended by the Senate to make this crime a gross misdemeanor rather than a felony.

Mrs. Ham asked for an explanation of the term "baiting". Dr. Dale explained it as a situation where a cat possibly would be used to entice a pit bull to fight. He added that the fact that this is a misdemeanor now, it is difficult to get much interest in law enforcement circles to prosecute these types of cases.

Mark McGuire, Chief Investigator and Director of Field Services for the Humane Society, concurred in the testimony of Dr. Dale. He added that the reason for the increased penalty for dogs is since that is where the major problem is, with very little cock fighting or fighting between other animals. Dog fighting is on the increase and is the area where all the gambling is taking place and where the major abuses do exist.

SB 355: Limits duration of and expands permitted reasons for temporary furloughs of prison inmates.

Jean Ford, Senate District 3, stated that this bill expands a portion of the law that now allows for temporary furloughs for certain kinds of activities for offenders in the Nevada Prison System. She stated this bill passed the last session as SB 438 by the Senate and was killed by this committee. It is essentially the same bill. She stated there was extensive testimony in support of the bill.

Senator Ford continued by saying that the overwhelming majority of prison inmates are released sooner or later back into society. The Warden has the power to adopt regulations to greatly restrict how and when the provisions of the current law are being implemented and how he would do so under the bill as proposed. The provision of the 72 hour limitation, except for medical furlough, actually limits the law on temporary furloughs more than it is now. No inmate sentenced to life imprisonment without possibility of parole or imprisoned for sex violations would be eligible for any of this. This bill deals only with a certain type of offender.

Looking directly at the bill, Senator Ford stated it is optional that the director may grant, consistent with classification evaluations, temporary furloughs for interviews with prospective employers. This has been expanded to allow these to take place on the outside.

The bill has been divided into categories which would allow for traveling in the state and another without. Line 10 starts the new language where the director can grant temporary furloughs (1) only within the confines of the state as it relates to meeting with and interviewing with prospective employers, (2) visit with family (a new option), but only after a release date has been set by the State Board of Parole Commissioners and no sooner than 180 days before that date. This was seen as a very useful tool to allow an offender who already has a release date to be able to get ready for a good adjustment back into society. Senator Ford stated that this is being done in many parts of the country and is not an uncommon provision to be allowed under strict circumstances. The Department of Prisons feels it is

one of the best rehabilitative tools that could be used.

Senator Ford next referred to line 17 which permits offenders to travel both within and without the state to obtain medical services not otherwise available. She indicated this is extremely important for people who have their own insurance that could be used if they have access. She added that there is a limit to a duration of 72 hours at line 21 except for medical furloughs which would be dependent upon the nature of the case.

The language which appears at page 2 is current law. Page 2 does require the director to notify appropriate law enforcement authorities when anyone is on a temporary furlough and allows him to adopt regulations for administering the provisions. Senator Ford referred to the regulations currently being used which provide certain eligibility requirements and the classification committee must hold a meeting to determine whether or not the inmate is eligible to be considered. There are conditions of temporary release which must be agreed to.

Senator Ford explained for Miss Foley the separation of the travel requirements stating that line 10 refers to within the confines of the state and line 17 refers to within and outside the state. The current law only allowed one to travel within the state. It was felt that for medical it might be possible that an inmate might need to go to California for treatment and the option should be open.

Mr. Malone asked how many prisoners would be able to take advantage of the medical furloughs. Senator Ford referred to a memo dated March 10, 1981 from the Women's Prison which says, "On behalf of the inmate population, we would like to submit to you some of the following reasons we believe the furlough program should be expanded. In regard to inmates being able to obtain medical services, inmates who have had serious medical problems before incarceration would feel much more secure in being able to return to their own doctor who has the knowledge of past medical history. Medical problems arise in here and to some medical staff an inmate is just faking or is put off as though it were not important enough to check out. This creates a lot of stress and strain besides a feeling of helplessness on the part of the inmate. If the inmate were allowed to consult a physician on their own and be responsible for incurred medical expense, this would be less of a hardship on the prison's medical budget. Many inmates are covered by medical insurance by their family or spouses. In the event of a major surgery or serious illness, this also could be taken care of privately and eliminate heavy medical costs to the prison. Along with that, they would have their family present to support them in the time of illness."

Senator Ford did not have the number of inmates who could use this option but commented that if this would make inmates more employable or takes care of problems that the prison cannot, what harm would be done. She added that these provisions would be very beneficial to those women who have children and would be able to visit with them. She continued by reading from the memo which states, "Many families would not come because of this very reason. Being able to go on a furlough and to visit would help to maintain and keep close family relationships, help to eliminate tension that builds and sometimes erupts into violence among inmates; help to eliminate harassment and activity by inmates of the same sex if they had a goal to work toward in order to be out on furlough. It would give an inmate a sense of hope and something to work towards. Furloughs of this type would help to provide an element of trust, respect and self esteem between inmates and also prison officials."

Steve Robinson and Bob Bayer of the Department of Prisons joined in Senator Ford's testimony. Mr. Robinson emphasized that if given this authority, the Prison would be very careful in its application. Before anyone would go out, they would have to go through a classification process which is exhaustive in nature, particularly to gain this type of privilege. To questions on the medical problems, Mr. Robinson stated that there were occasions in the past where VA covered inmates have been excluded from going to the VA hospital. In some cases, this would be a significant amount of savings. The VA and most of the other hospitals have indicated that they will not take an inmate who comes in or requires custody personnel or restraints. The VA Hospital has indicated that if such an inmate comes under a furlough status without security or restraints, they would take him in and treat him.

Mr. Bayer expressed concern over these inmates being out without supervision. Mr. Robinson stated that if the prison certifies that the inmate is at the level of custody where he or she is worthy of furlough and does not need security, then they will accept that individual.

Mr. Malone expressed concern about inmates who inflict wounds on themselves to be able to go outside the prison to a hospital. Mr. Robinson responded that the type that would be eligible for furlough would not generally do this; they are usually close to parole and have too much at stake. The classification committee would not let someone go on furlough after self inflicting wounds.

In response to a committee question, Mr. Robinson said that a prime example of the type of inmate they are trying to help is a kidney patient. He said they have several and one required over \$100,000 in treatment last year. He said they need to have the Federal Government or private insurance take care of these costs when possible.



Mr. Malone asked if the patient with the large medical bill had insurance. Mr. Robinson said that he was eligible as a veteran but his conduct record did not make him eligible for the furlough program at this time.

Mr. Beyer asked who pays transportation costs during a furlough. Mr. Robinson responded that in a medical furlough, the prison might pay but during a family visit furlough, the inmate would have to provide payment.

In closing, Senator Ford said that she does not consider this bill a "soft on crime" bill, but rather a tool to be used constructively. She said that most of those eligible for furlough are eligible for parole soon and anything that can be done to help them be received better when they are released is a big step forward.

SB 416: Specifically allows employment of prisoners on public works projects.

Steve Robinson spoke for this bill also. He said this bill was drafted at the Department of Prisons' request and the Attorney General's request to make explicit the state's authority to use inmates in a prison system on particularly federally run and financed public works type projects. He said the Federal Government has passed in several projects a prohibition of using inmate labor.

Mr. Price asked what program the prison had now. Mr. Robinson said there are no programs now, they are just looking into the future.

Mr. Beyer asked if private contractors who contract to do a job for the state would hire inmates under this bill. Mr. Robinson responded that it would be possible, but it would be more probable that the inmates would be used on highway projects through the Department of Transportation.

Mr. Robinson said the pay would be comparable to the Honor Camp, forestry workers, ranging from \$1.60 per day to \$3.10 per day. The jobs would be basically in the unskilled labor category.

The committee expressed concern that even at this low wage, the inmates may be taking other worker's positions and placing them on unemployment. Mr. Robinson said in the past when inmates were working in the light manufacturing area, when the economy turned down, the inmates were first to be let go at the Prison's insistence.

Ms. Foley said the concern might be in how many are eligible for these jobs and therefore displacing other people. Mr. Robinson said right now they are having trouble filling their forestry crews. He said there are 2,000 inmates in the entire system statewide and 125 may be needed statewide for forestry crews. He said they would only allow 15-20% are allowed out at any one time anyway.

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SB 403

Motion for DO PASS made by Mr. Beyer, seconded by Mrs. Cafferata.  
Motion carried with Mr. Thompson, Mr. Malone and Mr. Banner absent.

Chairman Stewart adjourned the meeting at 10:20 a.m.

Respectfully submitted,

JorJan Martin,  
Committee Secretary

61st NEVADA LEGISLATURE  
ASSEMBLY JUDICIARY COMMITTEE  
LEGISLATION ACTION

DATE: May 21, 1981  
 SUBJECT: SB 257: Changes certain provisions on restitution  
 by offenders to victims of crimes.

MOTION:  
 DO PASS XX AMEND \_\_\_\_\_ INDEFINITELY POSTPONE \_\_\_\_\_  
 RECONSIDER \_\_\_\_\_  
 MOVED BY: Cafferata SECONDED BY: Malone

AMENDMENT:

MOVED BY: \_\_\_\_\_ SECONDED BY: \_\_\_\_\_

AMENDMENT:

MOVED BY: \_\_\_\_\_ SECONDED BY: \_\_\_\_\_

VOTE:	MOTION		AMEND		AMEND	
	YES	NO	YES	NO	YES	NO
Thompson	<u>XX</u>	---	---	---	---	---
Foley	<u>XX</u>	---	---	---	---	---
Beyer	<u>XX</u>	---	---	---	---	---
Price	<u>ABSENT</u>	---	---	---	---	---
Sader	<u>XX</u>	---	---	---	---	---
Stewart	<u>XX</u>	---	---	---	---	---
Chaney	<u>XX</u>	---	---	---	---	---
Malone	<u>XX</u>	---	---	---	---	---
Cafferata	<u>XX</u>	---	---	---	---	---
Ham	<u>XX</u>	---	---	---	---	---
Banner	<u>XX</u>	---	---	---	---	---
TALLY:	<u>10</u>	---	---	---	---	---

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

ATTACHED TO MINUTES OF May 21, 1981

61st NEVADA LEGISLATURE  
ASSEMBLY JUDICIARY COMMITTEE  
LEGISLATION ACTION

DATE: May 21, 1981  
 SUBJECT: SB 306: Extends limitation on commencement  
 of criminal action for gross mis-  
 demeanor.

MOTION:  
 DO PASS XX AMEND \_\_\_\_\_ INDEFINITELY POSTPONE \_\_\_\_\_  
 RECONSIDER \_\_\_\_\_  
 MOVED BY: Malone SECONDED BY: Beyer

AMENDMENT:

MOVED BY: \_\_\_\_\_ SECONDED BY: \_\_\_\_\_  
 AMENDMENT:

MOVED BY: \_\_\_\_\_ SECONDED BY: \_\_\_\_\_

VOTE:	MOTION		AMEND		AMEND	
	YES	NO	YES	NO	YES	NO
Thompson	<u>XX</u>	---	---	---	---	---
Foley	<u>XX</u>	---	---	---	---	---
Beyer	<u>XX</u>	---	---	---	---	---
Price	<u>ABSENT</u>	---	---	---	---	---
Sader	<u>XX</u>	---	---	---	---	---
Stewart	<u>XX</u>	---	---	---	---	---
Chaney	<u>XX</u>	---	---	---	---	---
Malone	<u>XX</u>	---	---	---	---	---
Cafferata	<u>XX</u>	---	---	---	---	---
Ham	<u>XX</u>	---	---	---	---	---
Banner	<u>XX</u>	---	---	---	---	---
TALLY:	<u>10</u>	---	---	---	---	---

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

ATTACHED TO MINUTES OF May 21, 1981

61st NEVADA LEGISLATURE  
ASSEMBLY JUDICIARY COMMITTEE  
LEGISLATION ACTION

DATE: May 21, 1981  
 SUBJECT: SB 403: Increases penalty for dog fighting.

MOTION:

DO PASS XX AMEND \_\_\_\_\_ INDEFINITELY POSTPONE \_\_\_\_\_  
 RECONSIDER \_\_\_\_\_

MOVED BY: Beyer SECONDED BY: Cafferata

AMENDMENT:

MOVED BY: \_\_\_\_\_ SECONDED BY: \_\_\_\_\_

AMENDMENT:

MOVED BY: \_\_\_\_\_ SECONDED BY: \_\_\_\_\_

VOTE:	MOTION		AMEND		AMEND	
	YES	NO	YES	NO	YES	NO
Thompson	<u>absent</u>	_____	_____	_____	_____	_____
Foley	<u>XX</u>	_____	_____	_____	_____	_____
Beyer	<u>XX</u>	_____	_____	_____	_____	_____
Price	<u>XX</u>	_____	_____	_____	_____	_____
Sader	<u>XX</u>	_____	_____	_____	_____	_____
Stewart	<u>XX</u>	_____	_____	_____	_____	_____
Chaney	<u>XX</u>	_____	_____	_____	_____	_____
Malone	<u>absent</u>	_____	_____	_____	_____	_____
Cafferata	<u>XX</u>	_____	_____	_____	_____	_____
Ham	<u>XX</u>	_____	_____	_____	_____	_____
Banner	<u>absent</u>	_____	_____	_____	_____	_____
TALLY:	<u>8</u>	<u>0</u>	_____	_____	_____	_____

ORIGINAL MOTION: Passed xxx Defeated \_\_\_\_\_ Withdrawn \_\_\_\_\_  
 AMENDED & PASSED \_\_\_\_\_ AMENDED & DEFEATED \_\_\_\_\_  
 AMENDED & PASSED \_\_\_\_\_ AMENDED & DEFEATED \_\_\_\_\_

ATTACHED TO MINUTES OF 5/21/81