

MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON JUDICIARY

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
March 24, 1981

The Senate Committee on Judiciary was called to order by Chairman Melvin D. Close at 8:35 a.m., Tuesday, March 24, 1981, in Room 213 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Melvin D. Close, Chairman
Senator Keith Ashworth, Vice Chairman
Senator Don W. Ashworth
Senator Jean E. Ford
Senator William J. Raggio
Senator William H. Hernstadt
Senator Sue Wagner

STAFF MEMBERS PRESENT:

Shirley LaBadie, Committee Secretary

SENATE BILL NO. 322--Revises grounds and procedures for termination of parental rights.

Chairman Close advised that S. B. No. 322 would be heard at another time as Judge Mendoza and the welfare department need to make changes in the bill.

SENATE BILL NO. 384--Prohibits prosecuting attorneys from bargaining for pleas in prosecutions for certain offenses.

Mr. Cal Dunlap, District Attorney, Washoe County stated his perception of the bill is to cause persons involved in the use of deadly weapons, such as firearms in the commission of murder, kidnaping in the first degree, sexual assault or robbery to serve additional time in the Nevada State Penitentiary for using the weapon. He felt the approach is inappropriate, the purpose of the bill would not be served by the language as written. After the filing of the information is the way the bill begins and the way it is drafted, if the bill is passed, an indictment may be used to get around that portion of the bill, so should be

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after the filing of an information or indictment. He stated most prosecutors, including himself, in the state do not routinely involve themselves in negotiations concerning the dropping of the deadly weapon enhancement penalty. That option should be left available. Charges are made as the quality of crime and to the greatest number possible. A case which involves several charges in a plea bargaining process leaves the option for the best possible plea or conviction in the case. In charging the highest crime, usually the enhancement is also charged when a case before a jury is marginal; the defendant may plead guilty to another plea, dropping the enhancement portion of the charge for the purpose of getting the plea. The defendant will plead to that charge, rather than run the risk of getting a guilty plea from a jury when there is a 60-40 or 50-50 chance of conviction. Mr. Dunlap stated the flexibility is needed to handle serious cases. He felt rather than impose these sanctions, if a district attorney is not doing his job, he should be replaced. He felt the bill would cause a great deal of expense because everytime a person is charged with this, he will not plead guilty, he will go to trial.

Senator Hernstadt advised the committee the bill was requested by him because of the experience in Alaska where the attorney general banned plea bargaining entirely. Statistically there were no increases in trials or obstruction of the system. He said earlier in this session A. J. R. 6* was passed which allows the possession of handguns for lawful purposes which presumably the voters will approve. The purpose of this bill is to change the bill which was passed last session, probation was left in. He asked what additional sanctions, other than the proposed legislation in S. B. No. 384 could be used to deter people carrying handguns to use them only for lawful purposes. Mr. Dunlap said the multiple penalties provided by law now is adequate, it is a consecutive like sentence. In a case of kidnapping with a deadly weapon, could carry two life sentences consecutive for that one violation without possibility of parole. The experience in Alaska points out what is being done in Washoe County, a hard line is taken on evaluating a case. If every charge can be proven, the person is required to plead to every charge, if the higher charge of three charges can be proven, those may be dropped for judicial economy. In Alaska, the defendants and counsel will not insist on a trial when they are sure to be convicted. The judge may possibly give a greater sentence because of listening to the testimony. Plea bargaining is done before the charge in Alaska. Mr. Dunlap stated that to his knowledge, most of the people who have used firearms in Reno have gone to jail.

* of the 60th session

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Mr. Bill Curran, Clark County District Attorney Office, stated he agreed with most of the comments of Mr. Dunlap. He said in Alaska, the plea bargaining has been moved into an earlier phase, before the charges are filed. Boise claims they do not have plea bargaining, they have a major violators unit within the office and when a case is transferred there, they no longer plea bargain, if they decide to go ahead for a plea bargain, they transfer it back out. Everyone is against plea bargaining but it is difficult to draft a rule that is livable. This bill says only after the filing of an information, is plea bargaining to be eliminated. Line 5 refers to murder, under Nevada procedure a murderer is charged with open murder, the information is filed and it is left to the judge and jury what the appropriate degree would be from voluntary or involuntary manslaughter. Even though open murder is charged, the appropriate final determination of the case may be voluntary manslaughter, all there was in the first place. However under a proper Nevada pleading, the information charge is open murder. Technical matters such as this should be considered so a prosecutor is not required to go to trial on an open murder charge, when the final decision would be voluntary manslaughter. He stated most people who have used firearms in crimes do go to prison. Mr. Curran stated this bill would cover approximately 25% of his cases. Whether civil or criminal, most cases are settled out of court.

Mr. David Small, District Attorney, Carson City, stated in regard to the situation in Alaska, Boise and the possible effect of this bill, plea bargaining is done in public in Nevada. In these other places, it is done in the prosecutor's office and this bill would force this to go underground before the charges are filed. The flexibility should be left open to get the best charge possible in a case. Carson City has not had many problems with crimes with the use of firearms and all those which have occurred, the person has gone to prison.

SENATE BILL NO. 407--Provides procedure for appointment of guardians of adults and establishes special guardianships for persons of limited capacity.

Mr. Orvis Reil, representing the Nevada Joint State Legislative Committee of the National Retired Teachers Association and the American Association of Retired Persons presented testimony on S. B. No. 407 in favor of the bill. See Exhibit C attached hereto.

Mr. Jack Middleton, Division of Mental Hygiene and Mental Retardation stated there is a need in the programs for elderly for

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options in the guardianship procedures which exist in the State of Nevada. The law reads that you are totally competent or totally incompetent, there are two types of guardian, a guardian of person and a guardian of property. Mentally handicapped persons as well as the elderly need someone to assist in their affairs and provide help when needed. Many do not need all of their civil rights taken away and a full guardianship appointed. A limited guardianship has been presented to the previous two sessions. The opposition to limited guardianships has been only because of the financial impact and the procedural safeguards of the bill. Many of the guardianships which are now done in Nevada which take away all civil rights of a citizen, could be as limited guardianships. There is no added cost in doing a procedure when the outcome is a different type of guardianship. He asked that some legislation be put on the books that would cover mentally retarded young adults living in the community, working and can handle many of their affairs without taking their entire rights away. Mr. Middleton stated this bill is the same as was introduced last session with the exception of the last section which covers the procedure of review after one year and two years thereafter. A court appointed investigator was deleted in this bill.

Mr. Reil stated a legislative committee in Washoe County, the elderly and numerous agencies in Reno worked on the drafting. The D.D. subcommittee and the Division of Mental Hygiene and Mental Retardation were also involved in the bill.

Senator Hernstadt asked the difference between a full or limited guardianship. Mr. Middleton answered this would allow a judge to appoint a guardian on each type of area where a person needs care. The person may need supervision in a certain area but they would still have the right to vote, to sign a paycheck and related areas but does not take all rights which a full guardianship will. Senator Close advised that in Section 17, the court could select from any of the listed types of guardianships which may apply.

Mr. Hank Cavallera, Attorney, Reno, stated in his law practice he represents senior citizens and handicapped persons. In talking with Mr. Scott Jordan, Attorney, Reno, who was previously involved with this bill last session, they urged the adoption of this bill. This bill would allow some citizens to make many of their own decisions which they are capable of making without taking all their rights. The American Bar Association has come out with a model statute on limited guardianships and this proposed legislation complies with that statute. The President's Panel on Mental Retardation endorsed the concept of limited guardianships in 1962. In 1969, the National League of Societies for the Mentally Handicapped

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made the same kind of recommendation. Some states have already passed this kind of legislation. He stated he has tried to file limited guardianships in Washoe County District Court under the theory that it is constitutionally mandated, the government cannot take more rights away from you than is needed to solve your problems. The judges have refused because they do not have the statutory power. He suggested on page 4, line 44, that the words or not for profit corporation, be added. This would cover the situation of a young child or person in an institution who does not have a responsible person to sign for them for medical care. On Page 5, line 40, he would like the language amended to read, Perform any other act relating to the ward upon specific instructions or approval of the court. In the area of young adults who are working, they could have a choice of getting a job and how to spend the money but would not be able to make choices concerning medical care or programs available to them. These situations would be covered if this language is adopted.

Senator Don Ashworth pointed out on page 2, line 30, that a public defender usually defends criminals. Mr. Cavallera stated he did not know how that language was put in the bill. The model act does have a provision for the appointment of counsel. He said in Washoe County, the office of the public defender is routinely appointed by the court in such matters as civil commitment cases. The public defender also represents juveniles in juvenile court. The option is there to also appoint private counsel or the public defender. Mr. Cavallera told the committee he would provide them with copies of the A.B.A. model bill.

Ms. Beverly Lee, representing the Governor's Developmental Disabilities Planning Council, the Sierra Developmental Center Parents' Group and herself testified in support of S. B. No. 407. See Exhibit D attached hereto for her remarks.

Ms. Catherine Laughlin, representing the Retired Teachers Association of Washoe County and a member of the committee to evaluate Older Nevada's program for Northern Nevada which was appointed by the governor. She told the committee Scott Jordan would have testified but he had another commitment. He is with the Public Defenders Office in Washoe County. He urged the support of S. B. No. 407. In a letter sent to the legislators in Washoe County, one question concerned the guardianship bill, of those that did reply they endorsed the concept. Ms. Laughlin felt the bill was good even if it only helped a few persons who might have their rights taken away completely.

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Mr. Jared Shafer, Public Administrator, Clark County, also the ex officio public guardian in Clark County. He stated he had been informed on Friday about the meeting and was not able to obtain some information which would be important concerning S. B. No. 407. He said the fiscal impact on the district attorney, public defender, court system, social service agencies and the public guardian office could be tremendous if the bill in its present form is passed and no additional money is forthcoming. The Public Defenders office was upset that they were not consulted and the bill reads that they would defend in guardianship cases. There is no constitutional requirement for the appointment of counsel at public expense, also no constitutional right to trial by jury at public expense. The bill is vague and he felt there is a problem with the bill as a fiscal impact has not been noted. Mr. Shafer stated if when people are given a public agency to do their work, they take advantage of it in guardianships, probate work and anything they can get done.

Mr. Cal Dunlap, District Attorney, Washoe County, stated he supported the concept of giving to judges the additional options which are provided by S. B. No. 407. However the concept of having a jury determine these issues is ridiculous. These are difficult issues to decide and judges are better qualified to handle these matters. He said if the public defender or any other attorney is appointed in every case, the fiscal impact will be too high. The language on page 2, line 33, states the court shall appoint an investigator, will enrich investigators and social services which are not public employees or overburden the public agencies. He stated he supports the bill in its entirety but felt these matters should be considered in the final drafting of the bill.

ASSEMBLY BILL NO. 4--Increases fees for official reporters in district courts.

Mr. Milos Terzich, representing the Nevada Shorthand Reporters Association introduced Ms. Marijane Simon and Judge Carl J. Christensen for presentation of testimony on A. B. No. 4.

Mr. Cal Dunlap stated he is in favor of the bill because the courts in Washoe County have very good court reporters and is concerned that the quality be maintained at the present level. He felt the fees should be consistent with the cost of living and encouraged the consideration of the bill. He stated he had not studied the bill and was not aware of the specific figures regarding the increases but endorsed a raise of some kind.

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Senator Raggio stated things are done differently in Washoe and Clark County and asked Mr. Dunlap if the courts require that all matters be transcribed. Mr. Dunlap stated yes, so far as he knew, all criminal appearances are reported and transcribed for the record. Senator Raggio questioned if it was necessary to transcribe all hearings when there is no appeal. Mr. Dunlap stated it would be difficult to sort out cases as to which ones would be transcribed. Also records should be complete for future proceedings in postconviction release and appeals. Transcription of some matters is wasteful, however two years down the line information may be needed.

Ms. Marijane Simon, freelance court reporter from Las Vegas provided the committee with information regarding A. B. No. 4. See Exhibit E which is filed with the secretary's minutes.

Ms. Simon stated the estimate by her and the county figures of Clark County on fiscal impact are very different. The county estimated from \$300,000 to \$500,000 which she felt is double what the impact will be. Chairman Close asked if a fiscal note had been prepared on the bill. Mr. Terzich stated the note was prepared on the original bill which was at the rate of \$200 per day, increase from \$50 and on the original bill there was no folio increase. Chairman Close asked if a fiscal note was prepared before Assembly passed the bill in its present form. Mr. Terzich state no, the rules had been checked and one was not required.

Ms. Simon referred to a graph in Exhibit E which shows that Nevada, compared with all other states on per diem and salary, they are the lowest paid jurisdiction in all 50 states. Senator Wagner asked if the computation was done in the same fashion as there are states and cities included. Ms. Simon stated some are paid by the state and in some states court reporters are state employees, in other states county employees. Ms. Simon stated there is only one other jurisdiction in the country that has a per diem, that is Stockton, California. In 1979, the per diem was \$90, plus a retirement plan.

Ms. Simon referred to a chart in Exhibit E which was compiled in September 1979, which shows the gross salaries and all the benefits and supplies which are provided to the court reporters, none of which Nevada has. She stated this does not include transcripts, they are additional in every jurisdiction. She stated in civil cases there is an hourly wage of \$8.00 per hour in addition to \$50. She stated there is a misconception about how many civil cases are reported. The estimate is that the average is 5,000 on civil cases, per diem and transcripts included. Many civil cases are

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not reported and of those reported, not all are transcribed. Many settle on the even trial.

Ms. Simon referred to Exhibit E which had figures which were provided by the court administrator's office in Clark County. The figures are what has been paid to court reporters per department by the county. The figures are just what is paid by the county. The next section in Exhibit E refers to a Position Paper on Court Reporters' Compensation explaining why transcript income has to be separate from salary or per diem.

Ms. Simon referred to Exhibit E and the page which showed the breakdown in percentages on Transcript Income. She itemized what was covered in the supplies and equipment which accounted for 20%. Senator Raggio asked if Clark County provides paper or supplies. Ms. Simon stated they provide nothing, in Washoe County, some supplies are furnished. Senator Raggio asked about the 25% lost benefits. Ms. Simon stated a man from Clark County personnel explained to her that all county employees receive 23% of gross for benefits, for a court reporter to purchase these, it would cost more than 23% because it is not a group purchase. The figure of 25% was used. Senator Keith Ashworth stated these are fringe benefits, not lost benefits. Ms. Simon stated in some other jurisdictions these benefits are provided.

Senator Raggio asked how much a transcriber receives. Ms. Simon stated, 88¢ per page in Las Vegas. Senator Raggio asked why a transcriber is paid by page and a reporter by folio. Ms. Simon stated it is easier, the reporters think of it in terms of page, folios are transposed into pages. Mr. Terzich stated there is a difference in length of paper in Las Vegas and in the north. 32 line paper is used in the south and 30 line paper in the north. The north would figure 3 folios per page, the south would be 3.2, which is about 10 words per line. The word folio has been used in the constitution since 1864. This would amount to about \$3.30 for an original, plus two copies in the north and \$3.52 in the south, under present law. The new law should provide \$4.05 in the north. Senator Keith Ashworth questioned if standards are not set by Nevada Bar which required the use of the same size paper. Mr. Terzich stated they do not in the north.

Senator Wagner asked what the functions are of a district court secretary, in relationship to a court reporter. Judge Christensen replied there is no connection or correlation between the jobs. The court reporter does a phase of work which does not interrelate with anyone other than the judges and lawyers trying the case.

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Ms. Simon referred to Exhibit E which showed Clark County job classifications with their corresponding salary schedule. The next page shows a graph which indicates court reporters have been making \$6.78 an hour since 1975. Judicial secretaries have made from \$4.39 in 1971 up to \$9.47 an hour now. Senator Close stated they do not receive the extra compensation received on transcripts which court reporters receive. Ms. Simon stated this includes everything a reporter receives, it amounts to \$6.78 an hour. The way this was figured is 60 hours a week is worked, with \$41,000 gross per court. This is a total figure from all sources of income. Ms. Simon stated after checking some papers, these figures are what is billed to the county, she would refer to the other compensation later on in her presentation.

Senator Hernstadt asked if court reporters are hired by the attorney general office for transcription purposes and would they be affected by this bill. Ms. Simon stated, no, they hire freelancers to cover hearings which are not covered by the statute. Court reporters are independent contractors but the rates are set by statute.

Senator Raggio asked for the charges on an outside disposition. Ms. Simon stated a \$60 per diem is charged for an appearance and \$2.99 per page plus one original and \$1.45 for a originally executed carbon copy, in Las Vegas. Mr. Terzich stated various freelance firms charge varying amounts, some more, some less. Senator Raggio asked if an official court reporter also has an outside employment for civil dispositions. Mr. Terzich stated several court reporters only work for the court system. There is one in Washoe County and is prohibited from doing outside work. Most courts hire independent firms and that firm supplies a reporter on a particular day and is done on a rotation basis. In distributing funds received for court reporting, the reporter gets 50%, 25% goes to the firm and 25% to the transcriber if there is a transcription.

Ms. Simon advised the committee, in Clark County four of the courts are covered by firms, seven by individuals. Of the seven individuals covering courts, they are too busy to have any outside work. These individuals work on per diem directly for the judge.

Senator Wagner asked for the rationale for paying per diem rather than a basic salary. Mr. Terzich stated the statute provides that the district judge and county commissioners can provide a salary. In Carson City, this has occurred but this is the only place, the authority is there but has not been used. Judge

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Christensen stated the statute is vague and doubted that the statute would cover paying a salary. He felt Carson City is taking a risk by doing so.

Ms. Simon stated there are five reasons for asking for this raise. One is there has not been a per diem raise for ten years, the last one was in 1971, from \$40 to \$50. When the raise was given, Clark County stopped paying for supplies. Another reason is by the time any raise is effective, inflation will have exceeded 125% since the last per diem raise and it will be two years before the legislature can be approached again for a raise. In per diem, this is the lowest paid jurisdiction in all the 50 states. Court reporters are considered county employees but do not receive the 23% of gross in benefits given other county employees. Finally their standing in justice court has eroded to nothing because of the passage of S. B. 267 by the last legislature which required reporters to be available to report evictions and small claims and to report traffic court with no extra compensation given. Ms. Simon stated to become a court reporter, it takes 3 years of education, 75 to 95% of the persons starting court reporting drop out. In Nevada there is a two-part examination required to be licensed. In the last examination there approximately 50 candidates and two passed.

Ms. Simon stated after the actual court reporting is done, dictation is required and that takes two to three times as long to prepare a transcript as to originally listen to the proceedings. She stated court reporting is the third most stressful profession there is, being outdone by brain surgeons and air traffic controllers. Reporters are paid in Houston, \$120 a day plus benefits, in Salt Lake City, the salary would be \$26,000, it was \$12,000 in 1971. Chairman Close stated no referral is being made to the civil side of a reporter's practice. Salaries are being compared but no information is given on potential income there is in other jurisdictions. Salaries are being compared without consideration to other benefits and is not a meaningful bit of information.

Senator Hernstadt asked if these court reporters in district court would be satisfied to become county employees. Ms. Simon stated she did not know, she was sure one would not and probably the four firms would not be interested. Mr. Terzich stated the county could set the fees the same as in the statutes and not do it on a salary basis. Senator Hernstadt pointed out the benefits of being a county employee and why have the reporters not considered those possibilities. Mr. Terzich stated the court reporters association are just now becoming unified and are working on the initial

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problem first of increases in fees and consider that later. Judge Christensen stated his court has only one reporter and 20 to 30% of the time another reporter must be brought in. The daily needs vary and if adequate reporters are employed under the county, many of them would be idle at certain times.

Judge Brennen, District Court, Clark County, stated in a moving court room with a heavy case load, a court reporter can be burnt out quickly. If they are made county employees, there is a need for more than one recorder in a court. Senator Wagner stated in localities which have established salaries, it appears they have worked out these problems, they would be an employee of a governmental unit. Judge Christensen stated one of the problems with that is the volume, particularly in Clark County. The case loads runs from between 2,500 and 3,000 filings a year. If it was down to the national average of 1,500, a court reporter could work on a salary and do the dictation during a 9 to 5 day. Ms. Simon stated if a court reporter worked from 9 to 5, the salary would be approximately \$10,000 per year, district court secretaries top out at \$20,000 a year and court clerks at \$17,895, bailiffs at \$18,975 and law clerks at \$23,000. The most novice court reporter in the 8th Judicial Court has seven years experience. A reporter is only paid for the day the judge sits on the bench, other public servants are paid for a certain number of days, including holidays. They are paid \$50 per day regardless of the length of the day. Income from transcripts varies tremendously. It is estimated from \$1,500 to \$5,000 per year is made on civil matters, including transcripts as well as per diem. This is in addition to criminal, the average is about \$3,000.

Ms. Simon stated the work is hard and demanding for a court reporter and few people who start out to be a reporter continue on because of the work schedule and education required. Ms. Simon stated in Nevada, reporters are dependent on transcripts to make a living. Senator Raggio asked if per diem is set by statute in California. Ms. Simon stated it is set by county commissions. Senator Raggio stated in California, the larger counties have per diem of \$90 to \$95, Los Angeles, \$116 and Sacramento, which he had confirmed, is \$55, all other counties vary from \$75 to \$120 average. Ms. Lori Urmston, secretary of the reporters association, stated she had contacted the California association and in Sacramento, the beginning reporter is paid \$83 to \$88 per diem, they also have an hourly fee of \$13.45. This is in superior court and municipal. A pro tem is a beginning reporter, not an official and you are in the beginning salary range which would be \$83 to \$88.

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Senator Raggio asked if all divorce cases are transcribed in Clark County. Judge Christensen stated yes, except in a contested divorce case and a reporter is not used. Senator Raggio stated he saw no reason to transcribe uncontested divorces. Judge Christensen stated it provides income to a court reporter which does not come out of public coffers.

Chairman Close stated several years ago the legislature was dealing in the divorce area. Both the Senate and Assembly Judiciary committees felt divorce proceedings should not be transcribed, uncontested ones, unless it is requested. Seeming to be inappropriate, it was decided to have them not transcribed unless the judge orders it. This was the final decision, then Clark County went back and ordered across the board to transcribe all uncontested divorces in all cases. Judge Christensen stated that is what has caused the general decrease over the years, originally the reporters were furnished supplies and everything was transcribed. Now that has been changed, before in a civil matter if it took an hour, \$50 per diem was paid, that was reduced to \$8. The court reporters have taken reductions over the last six years, work has gone up and compensation gone down.

Judge Brennen stated if they are going to get the fee for divorce, it is required that it be transcribed. There is such a mill in Clark County on litigation in divorces on orders to show cause, he felt the transcript should be available. Clarification is needed later on, it is too hard to order a transcription one by one. The volume is too heavy. Chairman Close stated in previous testimony on this bill, statements were made that reporters were being paid for transcriptions but they were not transcribing them, this was several years ago. That is when the law was changed. Judge Christensen stated the procedure was adopted with the county clerk that they are all transcribed.

Senator Ford questioned if it was necessary to transcribe all the cases, rather than wait until it is needed. Judge Brennen said these matters are coming on so rapidly, the transcripts are needed. Senator Ford asked if a modification was filed, could the transcription then be requested. She did not feel they should all be transcribed just to see court reporters get a certain salary. Judge Christensen stated a court reporter charges \$15 for the uncontested divorce transcription. Ms. Simon stated if a judge needed the transcription which was not available, a continuance would have to be ordered. She stated the amount of money made on divorce transcriptions varies from \$1,500 to \$10,000 per court, the figures were provided by the court administrator's office in Las Vegas.

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Judge Christensen stated Ms. Simon had made her presentation to the judges meeting last month in the 8th Judicial District and was well received. Judges are trying to economize on the production of transcripts and are concerned but feel the reporters have lost money the last few years. This bill increases the transcription fee approximately 20%, takes the per diem from \$50 to \$100 and increases the per diem on civil cases from \$8 to \$15 an hour. He supports the request of the reporters in A. B. No. 4.

Senator Raggio was concerned with the impact if A. B. No. 4 is passed. He stated if the \$500,000 was divided between the 12 departments, it averages out about \$41,000, plus, if per diem is increased, that would add another \$10,000 per court, that amounts to \$120,000 on per diem. All this adds up to a large impact because of the court reporter fees. Judge Christensen stated of all the people staffed to work with a judge, there is no one as important as the court reporter. He stated he would rather lose a secretary, law clerk or a baliff. He said the use of tape recorders is a joke, it has never been proven anywhere.

Ms. Judith Schonlou, official reporter for Department No. 2, Judge Barrett stated she is out of a specific court and does not do disposition work. She stated her total per diem out of Department No. 2 amounted to \$8,250, total transcripts was \$17,259.86. Of that figure, \$7,849.90 which was criminal trial appeals, was paid by the county. The hourly civil came to \$3,000, that figure would be cut in half because that is based on having criminal court once every 7 months, is now once every 3 months. Her total salary came to \$28,509.86 for last year. She also handled the grand jury last year and it came to \$11,000, because there was a special investigation into the Washoe County Assessors office which cost the tax payers \$8,000. When it is necessary to have her court covered, the per diem goes to that reporter. She said she handled the Cathy Woods murder trial, missing only one and one-half days and produced 560 pages of transcript, done all at night. Ms. Schonlou gave several examples of how demanding her job is in court. She stated her paper is paid for by the county and saves her considerably money. Ms. Schonlou stated shes does no transcribing herself, she pays for that. She stated on criminal transcripts, when the public defender or district attorney needs them immediately, they cannot be done. It is impossible to keep up with them now. The supreme court is not lenient especially with the current chief justice when these transcripts are not available. Ms. Schonlou stated it takes 3 hours to dictate 1 hour of testimony in producing a transcript.

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Ms. Linda Shaw stated she has a freelance firm in Carson City and had with her Joan Goslin who worked for her. Ms. Shaw stated she is Judge Fondi's official reporter, and is paid on a salary basis. Her girls made an average of \$19,000 a year, that is half court work and half freelance disposition work. Ms. Shaw stated she did not get a salary last year, she had started a new firm. The gross earnings were \$82,000, that included four reporters, transcribers and a secretary. All the expenses were paid out of the \$82,000, the net for the year was minus \$5,800. She stated she had worked for nothing last year because the firm was new and getting started.

Ms. Shaw stated her salary last year from the court was \$13,500, that is based on approximately \$55 a day. They are paid for being available whether or not they are reporting, there are no benefits available under this agreement. Divorce money was \$1,500, more than half were done because of a new judge and he was traveling and relieving other judges, criminal transcripts was \$5,000. This was divided among all the employees. Ms. Goslin stated in her court they only transcribe what is appealed, that cuts down the potential earnings.

Mr. Milos Terzich stated the court reporters have not had an increase since 1971, per day rate, no increase on folio and hourly rates since 1975. These reporters actually work two jobs, all day in court and then at night transcribing, that should be taken into consideration in fixing their income. The association has advised Clark County how to reduce the impact of the increase, possibly on a savings on stamps for the returning of documents. In California a self-addressed stamped envelope is required to accompany the request.

Mr. Grace Fleming presented the projected figures for Washoe County if amended A. B. No. 4 passes. What is budgeted now in the 1981-82 budget is per diem, district courts, \$125,000, justice courts, \$44,100, transcripts for district courts, \$200,000 and transcripts for justice courts is \$123,900. Mr. Patrick Pine stated the reference to \$500,000 was for the district courts only. The total actual budgeted amount of \$925,000 includes the grand jury and justice courts.

Ms. Fleming stated this covered seven district courts and two justice courts, Reno-Sparks area. Increase in per diem would be \$169,100, increase in transcripts is budgeted at \$74,497, equal to about 100% increase in per diem and a 23% increase in transcripts. Senator Hernstadt asked for the bottom line total. Ms. Fleming reported \$243,597, estimated total fiscal impact of this bill.

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Senator Raggio said these figures would apply only if the two new departments are not added. Senator Hernstadt stated the law had been passed to add these departments. Senator Raggio stated the Supreme Court has to rule on this, it was approved two years ago.

Ms. Fleming stated she would like to comment in behalf of Washoe County and Judge Barrett. The total bills in front of the legislature will all increase costs, requests for increases in jury fees, witness fees and raising justice court salaries are being considered. In Washoe County, the increase could be \$700,000 to \$1,000,000 depending on what measures pass, in the cost of running the courts.

Senator Keith Ashworth asked if there were any figures on the total impact in Clark County. Mr. Pine stated it would depend on the calculation on the four district courts and whether you take four additional courts down there. Working on the impact of per district court, that is somewhere in excess of \$500,000 per district court. There are 12 district courts now and a request as been made for four additional. On the district court bill alone, in excess of \$2,000,000. See Exhibit F attached hereto.

Mr. Pine stated in dealing with the taxation committees, he has been told to reduce expenditures and try to control revenues. He has agreed with the chairmen of both taxation committees, in regard to financial impacts in the government, to put together a list of bills with fiscal impact and take them before the committee with a money figure. Senator Keith Ashworth stated caps will be put on revenue and on beginning and ending balances. Local Governments are going to be restricted very severely.

Chairman Close asked if any of these funds on reporters' fees are paid by the state. Mr. Pine stated no, paid by the county. He said they were very careful in the analysis to exclude anything that was not paid. There was an audit of the 11 district court departments to see what was actually paid out to the individual reporters. Anything coming through the civil process was excluded.

Senator Wagner asked about the number of days worked, it varies considerably. Mr. Pine said that is a calculation of the number of days of per diem which were paid for each of the individuals. Ms. Fleming stated Washoe County asked that consideration be given to letting the counties contract and set how much the fee will be for court reporters. There is considerable difference in Clark County, Carson City and Washoe County, some pay for

SENATE COMMITTEE ON JUDICIARY
March 24, 1981

supplies, another orders less transcripts. It is felt that when a county has to pay for it, consideration should be made to let the counties decide. Mr. Pine stated the impact on the smaller counties has not been determined, they have a limited labor supply.

This concluded the testimony on A. B. No. 4.

There being no further business, the meeting adjourned at 11:00 a.m.

Respectfully submitted:

Shirley LaBadie
Shirley LaBadie, Secretary

APPROVED BY:

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

DATE: April 2, 1981

SENATE AGENDA

COMMITTEE MEETINGS

EXHIBIT A

Committee on JUDICIARY, Room 213
 Day Tuesday, Date March 24, Time 8:30 a.m.

AMENDED MEETING SCHEDULE

S. B. No. 322--Revises grounds and procedures for termination of parental rights.

S. B. No. 376--Broadens prohibition against sexual assault by spouse.

S. B. No. 384--Prohibits prosecuting attorneys from bargaining for pleas in prosecutions for certain offenses.

S. B. No. 407--Provides procedure for appointment of guardians of adults and establishes special guardianships for persons of limited capacity.

A. B. No. 4--Increases fees for official reporters in district courts.

SENATE COMMITTEE ON JUDICIARY

DATE: March 24, 1981

EXHIBIT B

PLEASE PRINT	PLEASE PRINT	PLEASE PRINT	PLEASE PRINT
NAME	ORGANIZATION & ADDRESS	TELEPHONE	
Beverly Lee	DD Planning Council 505 E King	885-4440	
Dorell Luce	Christian Science Church	385-1331	
Orvis E Peil	NPTA/MLP - Nevada State Leg. Com.	702-1511	
Bert J. Moore	NAACP - P.O. Box 7757 Reno 89510	359-0500	
John Smith	...	331-5675	
Med Solomon	Clark County Tax Ct.	649-3611	
Carol Snafer	Public Administration of Clark County	386-4332	
Jack Madalita	407 MH-1MP		
Wanda Hardley	Welfare Director	885-4771	
Barbara	Welfare Director	785-...	
Eric S. K.	University of Nevada	-	
Carl Dunlap	DIST. ATTORNEY WASHOE CO	785-6259	
Patricia Couch	2861 Carmine C.C.	883-7452	
Charles Nelson	Dep. AG Crim. Div.	885-4170	
Henry Cavallera	Attorney	323-0117	
Bill ...	Clark ... Ct	386-6	
Dorell Middleton	...	885-5550	
...	
...	
...	

MARIE E. BELL

NEV. SUSPENDED RESIDENTS ASSN
BOX 379 ZEPHYRUS, NV

588-3707

ROMAINE OLSON

NEV. SUSPENDED RESIDENTS ASSN

588-3711

MILOS TRYJIK

" " " ASSN

882-6790

JANE OLSON

" "

883-7950

FRANK GILBERT

INTER

LESLIE A. BASTLETT

NEV. SUSPENDED RESIDENTS ASSN

882-7530

LOUISE GILBERT

"

364-3711

GRACE W. FLEMING

WADSWORTH COUNTY

LYLE'S CORNER

ELLENBURG, NEV.

519-225-3727



NATIONAL
RETIRED
TEACHERS
ASSOCIATION



AMERICAN
ASSOCIATION
OF RETIRED
PERSONS

EXHIBIT C

NEVADA JOINT STATE LEGISLATIVE COMMITTEE

CHAIRMAN
Mr. William McCullough
540 Avenue M
Boulder City, NV 89005
(702) 293-1774

VICE CHAIRMAN
Mr. Gerald Prindiville
612 Mary Street
Carson City, NV 89701
(702) 883-3455

SECRETARY
Miss Ruth Stringer
1113 Arrowhead
Las Vegas, NV 89106
(702) 648-0273

STATEMENT ON SENATE BILL 407 - BEFORE SENATE COMMITTEE ON JUDICIARY - 213

Tuesday March 24, 1981 - 8:30 a.m.

My name is Orvis Reil, I represent the Nevada Joint State Legislative Committee of the National Retired Teachers Association and the American Association of Retired Persons; we have over ^{50,000} ~~40,000~~ memberin Nevada.

This is the third consecutive session a bill has been introduced in the Nevada Legislature; which wplud significantly change Nevada's guardianship statute related to guardianship.

Between the 1977 Session of the Nevada Legislature and the 1979 Session a great amount of research was carried on in Washoe County; the Washoe Senior Advisory Legislative Subcommittee was the supporting agency. They studied the findings and supported the development of the text that was introduced in the 1979 session and again in this 1981 session.

The text of the bill was reviewed by the bill drafter's office prior to the 1979 session and a request to have it introduced was made prior to the 1979 session, but, for some reason it did not appear in the Assembly until March 6, 1979. Testimony was not taken on the bill until April 11, 1979 and was sent to the Senate May 17, 1979. May 17 being so late in the session; the final note appearing in the Final Volume of the 1979 History of the Assembly read:- "May 18 - In Senate, Read first time. Referred to Committee on Judiciary. To Committee.

Thw people, with legal training who worked on the research told the members of the Washoe Senior Advisory Legislative Subcommittee; the current law requires the complete

Micred I Moore
President NRTA

Olaf J Koosa
President AARP

Cyril F Dickfield
Executive Director

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abdication of the wards legal rights when a guardian is appointed. In fact the rights that a ward retains is less than the prisoners an any of our prisons are allowed to retain. Two cases related to two young people, a boy and a girl, two separate cases, indicated that their rights had been abused. Who the two individuals were we were not told, because, the information was considered as confidential.

The present law does not take into consideration the fact that elderly people usually do not need a guardian or some person to handle all their affairs. This bill is structured so that the guardian will be allowed to handle and take care of the functions the ward is not able to accomplish without assistance. The limited authority will be shown in the document appointing the guardian.

It is also structured to be terminated when the wards abilities improve.

Senate Bill 407 of the present 1981 Session and Assembly Bill 511 of the 1979 Session are almost identical. The testimony that was given on April 11, 1979 before the Assembly Committee on Judiciary was strongly in favor of the Bill.

In the Legislature's files the minutes of the April 11, 1979 hearing of Assembly Bill 511 of the 1979 Session are Exhibits C, D, E and F Which indicates the drastic need of changes in the present law.

During the past four years including some recent news reports; the present law has allowed the rights of the elderly to be abused.

I don't know how our law compares to the law of Missouri but 25 years ago a 7 year old boy in Missouri was accused of stealing from a church collection; his punishment was confinement to the mental institution; later the charges were dropped; but, now 25 years later the 32 year old man has finally been released. The Probate Judge released him after a hearing that ^{convinced} convenged the Judge the boy had not been adequately tested.

The boy previously mentioned here in Nevada could have had the same type of story except some one going through the records of one of Nevada's institutions accidentally discovered his plight. Not the boy, but, the individual who discovered the boy's plight, was the one that was able to clear the record.

Carylee's, Inc.

SB 407

EXHIBIT D

Testimony by Beverley Lee, representing

The Governor's Developmental Disabilities Planning Council,
The Sierra Developmental Center Parents' Group, and
Herself, as a consumer.

I am here representing the Governor's Developmental Disabilities Planning Council, the Sierra Developmental Center Parents' Group, as well as myself as a consumer.

The Governor's Developmental Disabilities Planning Council is unanimously in favor of SB 407.

The Sierra Developmental Center Parents' Group wishes to go on record as advocating the passage of SB 407. In case you are not familiar with the Sierra Developmental Center, it is the group of buildings just southeast of the Mental Health Institute in Sparks. The Center houses and serves many clients who have varying degrees of disabilities.

Now speaking for myself as a consumer: less than a month ago, it was necessary for me to petition the courts for guardianship of my daughter Laura, who is 25 years old and mildly retarded. The court granted my petition and as a result, Laura is regarded by the courts as being totally incompetent., But SHE IS NOT!! She needs some controls in some areas such as consent to placement and to treatment; but for the most part she is competent and capable of making her own decisions.

Carylee's, Inc.

SB 407

Testimony by Beverley Lee (continued)

Under the present guardianship law, Laura has been stripped of all of her rights! She is now a "non-person". Therefore, she cannot marry without my consent. Nor can she open a charge account or a checking account without my consent. She cannot vote for the candidate of her choice without my consent.

Under SB 407, as Laura progresses and matures, the degree of guardianship could be decreased. Under the present law, she can have all of her rights or none.

Laura's situation is not unique. There are many like her who could function very well under a limited guardianship system. I have some case histories for your review. These cases show quite well where a limited guardianship would be extremely functional.

The passage of SB 407 will allow the mildly handicapped person some latitude to perform in our society, to the best of that person's ability. The limited guardian will remain in the background, ready to step forward to help, to advise, or to provide whatever is needed.

SB 407 is a good bill. The Governor's Developmental Disabilities Planning Council, the Sierra Developmental Center Parents' Group, and I all urge you to recommend its passage.

It has been a privilege to testify before your

Corylee's, Inc.

SB 407

Testimony by Beverley Lee (continued)

committee. Thank you for your time and your attention.

STATE OF NEVADA
DEPARTMENT OF HUMAN RESOURCES

RALPH R. DISIBIO, Ed.D., DIRECTOR

ROBERT LIST, GOVERNOR



DEVELOPMENTAL DISABILITIES PLANNING COUNCIL

505 EAST KING STREET, ROOM 502
CARSON CITY, NEVADA 89710
TELEPHONE (702) 885-4440

March 23, 1981

To: The Committee on Judiciary

From: Mrs. Beverly Lee, Member
Nevada Developmental Disabilities Planning Council

S.B. 407

The Nevada Developmental Disabilities Planning Council, which is appointed by Governor Robert List, unanimously endorses Senate Bill 407 and strongly urges your support in the passage of this bill.

BL:fs

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CASE SUMMARY: JANET DOE:

Janet is a 21 year old female currently residing at a Developmental Center. She is slightly mentally retarded; etiology unknown. She also exhibits episodes of psychosis as diagnosed at the Nevada Mental Health Institute. There is no speech or hearing impairment.

Janet graduated from high school in 1978 with a degree from the Special Education Department. She has no plans to pursue any further education and until recently was involved in a sheltered workshop of various work activities.

CURRENT PROBLEM AREAS:

1) Psychological Treatment:

Janet requires long term psychological and behavioral intervention in order to lessen her aggressive and assaultive behaviors. Janet has a tendency to become very aggressive when threatened by older individuals. Janet also has a tendency to run away from any facility in which she is placed. Long term psychotherapy and behavior modification is required in order to maintain a regime of medication and therapy that allows her to function at her highest level.

Janet has been institutionalized her entire life. Her long term institutionalization is reflected in her aggressive and assaultive behaviors toward staff members and her over-dependency on staff members for reinforcement.

2) Powers of Guardian:

Limited guardianship could consist initially of consent to treatment, consent to placement, as well as assistance in money management and the like.

Limited guardianship in this particular case would require a rather active guardian. Janet needs to have controls placed on her in the environment in which she lives and such controls would need to be authorized by any guardian. Due to her aggressive and assaulted behaviors, a guardian would also have to assume responsibility for treating Janet's emotional and psychological needs.

Eventually, if Janet's condition did improve, the guardianship could be decreased to the point where only consent to psychological treatment and residential placement would be necessary.

CASE SUMMARY: JANE DOE:

Jane is an 18 year old female, currently residing at a Developmental Center. She has Spastic Cerebral Palsy, involved to the extent she is confined to a wheelchair. There is no speech or hearing impairment, nor is there any intellectual deficit.

Jane graduated from high school in 1980 and plans to attend community college in the near future.

CURRENT PROBLEM AREAS:

1) Medical Treatment:

Jane requires extended physical rehabilitation in order to gain self-help skills, mobility and strength. This training will allow her to live semi-independently in the community.

2) Residential situation:

Due to long institutionalization, Jane's maturity is slightly below what one might expect from an 18 year old individual. With some encouragement and guidance, she is rapidly progressing.

3) Powers of Guardian:

Limited guardianship should consist initially of consent to treatment and residential placement and assistance with money management. Gradually, the guardianship could be dissolved as more social and self-help skills are acquired.

In this case, the guardian would be there to act somewhat as a surrogate parent rather than a guardian per se.

CASE SUMMARY: JOHN DOE:

John is a 19 year old male, currently residing in a Developmental Home. Due to Thyroid surgery at age 13, this young man has failed to mature physically or emotionally.

John graduated from high school in 1979 with a special certificate from the Special Education Department. He has no plans to continue his education.

CURRENT PROBLEM AREAS:

1) Medical Treatment:

John requires extensive medical treatment in order to maintain his thyroid, decrease edema in the lower extremities and to diagnose and treat a possible genetic disorder.

2) Residential Situation:

Due to John's extreme unstable behaviors, history of aggression, assaultive behaviors toward others and a tendency toward manipulating adults, John requires a highly structured group home in order to obtain necessary self-help and social skills. Currently, John is able to leave the group home he is placed in because there is no guardianship established on this young man, nor is he viewed by professionals as an individual in need of civil commitment.

Reasons for not pursuing guardianship on John include the fact that in the near future he may be capable of driving an automobile, entering into contracts and so on, as his intellectual functioning is not impaired in any way.

3) Powers of Guardian:

John requires assistance in money management, consent to medical treatment and some control needs to be exercised over his running away behaviors and his manipulating of other individuals.

The guardianship could gradually be decreased as John gains more social maturity, medical treatment provides him with more masculine characteristics, and behavior management therapy prove more successful.

Exhibit E

**THIS EXHIBIT IS MISSING FROM BOTH THE ORIGINAL
MINUTES AND THE MICROFICHE.**

TO: Senator Mel Close, Chairman - Senate Judiciary Committee
FROM: Patrick Pine, Assistant Comptroller, Clark County
SUBJECT: AB 4 - Court Reporters' Fees
DATE: March 24, 1981

EXHIBIT F

Clark County's position on AB 4 (amended) has been that, regardless of the merits of any individual court reporters qualifications for increased compensation, the additional costs that AB 4 would impose on Clark County are significant. The fiscal impact is of further significance in light of various proposals to restrict local government revenues and expenditures. Under AB 4, the following impacts are estimated:

<u>Current Budget</u>	<u>Composed of</u>
\$925,011	20% Per Diem/80% Transcription
925,011 x .20 = \$185,002 for per diem	
925,011 x .80 = \$740,008 for transcription	

If per diem increased from \$50 to \$100, 100% increase. If transcription fees from 70 cents to 85 cents per original, and 20 cents to 25 cents per additional copy, 22% increase.

Therefore, the additional impact of AB 4 is estimated to be:
\$185,002 plus \$740,008 x .22 (or \$162,802)
for a total impact of \$440,305.

However, it is agreed that perhaps actual expenditures may be lower than the budgeted level for 80/81, perhaps in the neighborhood of \$800,000. Using the analysis above, the impact would be reduced to approximately \$300,000. The above impacts purposely exclude those payments made by private parties ~~in~~ ⁱⁿ a ~~civil~~ ^{civil} process.

It must be recognized that actual expenditures for 1981-82 might be closer to \$900,000 if caseloads continue to increase. There has also been a bill introduced recently to add four District Courts in Clark County and each additional court authorized is expected to generate approximately \$50,000 annually in reporters' fees. Therefore, the estimated fiscal impact of AB 4 on Clark County ranges from a minimum of \$300,000 to an amount in excess of \$500,000.

Finally, in reaction to debate in the Assembly on AB 4, we conducted an audit of 11 District Court reporters' fees in Clark County for the most recent calendar year and found that the lowest total earnings for a reporter equaled \$13,294 for 41 days, while the highest total earnings for a reporter equaled \$60,388 for 168 days. The median level of earnings equaled \$46,630 for 205 days. Therefore, we would estimate that, should AB 4 pass, the median earnings level would approximate \$64,884 for 205 days work.