

MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON JUDICIARY
SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
March 30, 1981

The Senate Committee on Judiciary was called to order by Chairman Melvin D. Close at 9:05 a.m., Monday, March 30, 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 Jean E. Ford
Senator William J. Raggio
Senator William H. Hernstadt
Senator Sue Wagner
Senator Don W. Ashworth

STAFF MEMBERS PRESENT:

Shirley LaBadie, Committee Secretary

Mr. Bill LaBadie, Nevada State Welfare asked the committee to withdraw any further consideration to S. B. No. 322, which deals with termination of parental rights which was introduced by the welfare department. Mr. LaBadie advised the committee Judge Mendoza and the welfare department cannot agree on changes which Judge Mendoza has requested. The department prefers the present law.

SENATE BILL NO. 416--Specificially allows employment of prisoners on public works projects.

Mr. Steve Robinson, Department of Prisons stated this bill would be helpful if in the future the state or federal government had need for inmates for employment in public work construction. This bill adds to the legislation which was passed last session which gave the director of the department the authority to set up prison industries. The attorney general office advised the department that it should be explicit in the law that the director has this right to employ the inmates on public works projects funded by the federal government. Presently there is a law on the federal books which precludes use of convict labor in most federally funded projects. The law has been tested in some states

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but not finally adjudicated, but it is felt if the law is explicit in this, it would give the department a better chance of getting around the federal law. Prisoners have never been employed in road crew types of work. The federal government has prohibited this because of an antagonism for the old chain gang aspect and the way inmates had been used some years ago.

Senator Wagner advised the committee she had introduced this bill in behalf of the Department of Prisons and asked what opportunities will be available to inmates. Mr. Robinson stated the main program would be in the Department of Transportation. They could be used on road crews where they will be directly supervised by a Department of Prisons employee, mainly for cleanup work.

Chairman Close asked for the necessity of the bill, it appeared that it was not necessary. Mr. Robinson stated they had been advised by the attorney general office it should be requested to make the law explicit. Chairman Close questioned how the state would look by using inmates for roadwork so far as image. Senator Wagner advised the committee people from the jails in Reno have been used and there appears to be no problem.

Mr. Robinson advised the committee the rate of pay for these inmates would be essentially the same as the forestry honor camp crew. They range from \$1.60 to \$3.10 per day. Good-time credits could also be offered for working in this program. Senator Raggio summarized the bill by saying, this bill does not change anything but makes it clear inmates can be used on public works programs and those are funded in most part by the federal government and the language will help in overcoming that restriction someday. Mr. Robinson said Senator's Raggio statements were well stated concerning his analogy of the proposed legislation.

Mr. Robert Linderman, lobbyist for the American Civil Liberties Union of Nevada, stated they are in support of S. B. No. 416. He felt anything that would get an inmate out of prison into a working environment prior to his release would be helpful.

SENATE BILL NO. 432--Increases number and allowances of costs for expert witnesses.

Mr. Warren Goedert, Nevada Trial Lawyers Association, stated he is in favor of S. B. No. 432. Costs have escalated in the hiring of expert witnesses in civil and criminal cases. The \$250 now allowed by statute is no longer practical. He stated the last bill he got from a doctor who was required to testify for one-half day was \$300, another was \$400. The fees vary but they run from \$300 for one-half day to \$1,000 for investigation and appearing as a witness.

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Discussion by the committee of S. B. No. 432 resulted in finding that Sections 6 through 9 are existing law and should not have been printed as new language.

Senator Wagner questioned why the amount of witnesses had been increased from three to five. Mr. Goedert stated it was requested because of more complicated trials, simpler cases would need fewer and three would cover it.

Chairman Close asked why \$750 is allowed for a witness fee, then the bill goes on to say the court may allow a larger fee in a proper case. He felt this left the door open for excessive fees. Mr. Goedert stated it could happen, however the courts are required to watch for this. There are times when a witness should be allowed to charge for their time and when a person wins a verdict in a case, they should be allowed to recover costs, instead of paying those out of his pocket.

SENATE BILL NO. 435--Expands duty of agencies of criminal justice to disclose records of criminal history to certain persons.

Mr. Robert Manley, with the attorney general office, stated he is concerned with S. B. No. 435 in regard to the prison situation. They prosecute the prison firm and can foresee the situation when a victim of a prison crime wants to obtain information, such as statements of other inmates and statements of correctional officers. Then they abuse that information, perhaps an exception should be made for incarcerated persons. Or perhaps the term, reasonable, should be expanded to make it clear that the information does not have to be given for a fair length of time. This situation would occur when you have an inmate perpetrator and inmate victim. The reports could include information which is very sensitive because of the close environment in the prison. A person labeled a snitch is in big trouble, this could lead to problems that are not occurring in the prison now.

Senator Raggio questioned if an amendment to the effect that a disclosure to a victim who is in custody would be at the discretion of the custodian, would help solve this problem. Mr. Manley stated that is what he had in mind. Chairman Close said that disclosure could also be made to the family and the information could be passed on. Mr. Manley said the family should be included in the exception. He said he did not want to restrict inmates from obtaining this information but should be done in a way that it will not cause a proliferation of these problems.

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The legislation makes it mandatory and there is no discretion. Mr. Manley stated Attorney General Bryan is extremely concerned with victims of crime and would not say anything to the committee which would conflict with that policy decision. Senator Raggio stated if he is suggesting that this remain permissive, it would not be of any help when the information cannot be obtained. Mr. Manley stated he referred to permissive as to inmates.

Mr. Warren Goedert, Nevada Trial Lawyers Association, stated he is in favor of the bill. This bill came from some of the difficulties encountered in southern Nevada in obtaining information from the Metropolitan Police Department. It has been suggested the language be changed to certified juveniles and there is no objection to that and that information can be obtained through the juvenile act by petitioning the court for the release of names. The purpose of the bill is to be able to file civil suits and obtain some redress from victims of crime.

Chairman Close asked why the language was deleted on lines 8 through 14. Mr. Goedert stated it was in the bill drafting office, it was his understanding it is no longer needed because of the language already written which is already inclusive.

Senator Ford questioned the difference between a notarized or verified request. Mr. Goedert stated a notarized request is sent to an agency before the information is released. A person dealing with an attorney would be informed of the procedures. He stated the reason for the request is to protect the agency. Senator Raggio asked about the costs involved with these procedures, would it be agreeable to charge that to the requestor. Mr. Goedert stated that would all right. In regard to the difference between a notarized or verified request, a verified statement is a sworn statement that the information is true to the best of the person's knowledge. A notarized request states that the person who signed the statement is, in fact, the person who signed it.

Mr. Ned Solomon, Juvenile Clark County Probation Department, stated the department has some concern with this bill, they were not aware it was in the statutes. It was discovered when a police jurisdiction in the Henderson area was using this section of the law to release juvenile records to any employer making a request. A request has been made to the bill drafter to change this. This bill is not consistent with Chapter 62.200 which indicate juvenile records are confidential. The department has a victim's assistance program which allows the review of all police reports when children are referred to the them. Chairman Close stated if this section is deleted on juveniles.

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no one else in the state would be able to get information on juveniles. Mr. Solomon stated they would be able to, he would explain that later on. It is not the intent of the department to restrict information to a victim if a juvenile is involved. Chapter 62.270 allows that anyone having a civil action to a juvenile has the opportunity to obtain information by contacting the court and getting a court order. The department works out all the details of a settlement to a victim. If the amount is unrealistic to order the child to pay, then the victim would be better off to get an attorney and go to court.

Chairman Close questioned why the victim should not know the name of the juvenile who has committed the crime. Mr. Solomon stated it is nonproductive in rehabilitation of the child. It has been found that when the records are released, it has not been a deterrent to crime, in many cases has promoted it. Chairman Close stated he felt the victim should be allowed to know the name of the person creating the crime, even though he may be a juvenile. Mr. Solomon stated he felt it was better for the juvenile and did not want to add to their burdens by releasing their name and felt the department had been successful in this area.

Mr. Solomon stated the change he would like to request is on line 6, by adding certified to adult status. Then any child who is a continual offender and will not benefit from the rehabilitation of the juvenile court, would be covered by this legislation.

Senator Raggio questioned why the law should be changed and felt the same as Chairman Close that the victim should be allowed to know the name of the juvenile committing the crime. Mr. Solomon stated the information can be obtaining by filing a petition to the court. Chairman Close said that Clark County has a very sophisticated and expensive procedure and most of the other areas in the state do not have the setup to handle juveniles. If this change is made, it would severely hamper the less populated areas of the state. Mr. Solomon stated restitution works and is an excellent program for them. He said he had talked to the people in the rural counties and if they had the resources, this would be the way to go, they just need an additional probational officer.

Mr. Bill Curran, Clark County District Attorney's office, stated he wanted to speak in behalf of Larry Ketzenberger of Metropolitan Police Department who was unable to attend the meeting. Mr. Ketzenberger and his department are opposed to S. B. No. 435, fundamentally because of the administrative

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burden and expense. Mr. Ketzenberger feels this legislation would create additional manpower hours which the department does not have available.

Mr. Curran stated his position on the bill is that this provision of the law is not automatically subject to all the other provisions which apply to the same sections within NRS. If the bill related to crime victims such as burglary or robbery, there would be no problem. The real issue is traffic cases, requests for reports for traffic accident cases are being made. As an attorney, he felt the information could be released, so long as the requestors are required to pay for the paperwork. Mr. Curran stated he would not have a problem with the bill in the context of traffic accidents. He felt that was the only thrust by the people who seek the amendment to the bill. In cases of crime, the victims have not been denied access to information, the police agencies under the existing permissive language are giving out that information. The people denied that access have been essentially the trial lawyers. Mr. Curran stated his area of concern is that some cases have hundreds of documents and photographs and some of these come from other jurisdictions. In NRS 179A, it states a criminal agency which receives information from another jurisdiction can release that information only according to their rules. The status of the law would have to be examined in each state before any information can be released. He stated he would not like to see confidential information in police records released just to take care of a small existing problem such as traffic cases.

Mr. Michael DeLaTorre, Director of Law Enforcement Assistance, stated this bill had been presented to the last legislature out of his office; all legislation had been reviewed concerning this in other states to see what problems could be eliminated at the legislative stage prior to going to court for clarification. Apparently the study was not sufficient because Henderson Police Department started calling the department after the session regarding juveniles. After meeting with Mr. Frank Daykin, they felt the word may clarified everything. His main concern with the bill is in paragraph 2 which eliminates investigative intelligence, his department has on-going investigations. He suggested the brackets on lines 8 through 14 be removed from the bill.

SENATE BILL NO. 425--Increases number of district judges in eighth judicial district. (Exhibit c)

Discussion of S. B. No. 425 resulted in the following action:

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SENATE BILL NO. 425

Senator Hernstadt moved to Do Pass and Rerefer to Senate Finance, S. B. No. 425.

Senator Wagner seconded the motion.

The motion carried. (Senator Keith Ashworth was absent for the vote.)

SENATE BILL NO. 416 (On Agenda) (Exhibit D)

Senator Don Ashworth moved Do Pass S. B. No. 416.

Senator Raggio seconded the motion.

The motion carried. (Senator Keith Ashworth was absent for the vote.)

SENATE BILL NO. 432 (On Agenda) (Exhibit E)

Discussion by the committee resulted in an amendment to the effect, lines 17 through 23 would be changed, a mistake was made in the printing office which made the language new, it is existing now.

Senator Don Ashworth moved to amend and Do Pass S. B. No. 432.

Senator Raggio seconded the motion.

The motion carried. (Senator Keith Ashworth was absent for the vote.)

SENATE BILL NO. 435 (On Agenda)

Senator Don Ashworth moved for indefinite postponement of S. B. No. 435.

Senator Raggio seconded the motion.

The motion carried. (Senator Keith Ashworth was absent for the vote.)

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SENATE BILL NO. 47--Provides for protection of agricultural activities from law.

Senator Hernstadt moved for indefinite postponement of S. B. No. 47.

Senator Raggio seconded the motion.

The motion carried. (Senator Don Ashworth was absent for the vote. Senator Keith Ashworth voted no.)

SENATE BILL NO. 272--Permits imposition of fine where imprisonment is suspended for certain first offenders possessing controlled substances. (Exhibit F)

Senator Keith Ashworth moved to Do Pass S. B. No. 272.

Senator Hernstadt seconded the motion.

The motion carried unanimously.

Chairman Close advised the committee he had a bill drafting request which was came from the banks.

BDR 10-1186 (S.B. 480)

Makes special provision for service charges in law on unclaimed property.

Senator Raggio stated he had no interest in the bill. Senator Keith Ashworth stated he had a conflict of interest.

SENATE BILL NO. 372--Revises statutes relating to adoption of minor children.

The committee reviewed a scrapbook which was compiled of newspaper clippings during the blackmarket adoption of babies some years ago. Senator Ford stated she thought the bill should be processed, the persons testifying in behalf of the bill presented a well thought-out case for the need to clarify the intent. On page 4, lines 35 and 36 which allows attorneys to get into the facilitating of negotiations, eliminate this language and add in language which amended NRS 127.285 that says any attorney that does not have a license, would have to be a child-placing agency and could not place or arrange for placement or advertise and provide a penalty for that, then the bill would be acceptable.

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Senator Ford stated recommending someone is not assisting in placing or arranging a placement of a child. Senator Raggio advised the committee he had the Legislative Counsel Bureau Report of March 1963 which was adopted by the legislative committee, following the disclosure of all the abuses of blackmarket adoptions. He suggested the committee review the information in this report, the report recommended that the natural parents not be involved in anyway in adoptions. Most of the problems with adoptions resulted in the natural parents making direct contact with prospective adoptive parents. These adoptive parents were willing to pay anything, the natural mother was selling her baby and the lawyers and doctors were involved and it was recommended in the report that there be no direct placements.

Senator Raggio stated the law should not be changed to accomodate the laxity of other states. Senator Ford stated considerable testimony had been presented in the hearing that people did not want to go through the Welfare Department in having their child placed for adoption. Senator Raggio stated only in blood relationships should there be a right to recommend directly the placement of a child, that should be with child-placing agencies. Senator Raggio stated it is in the law now that a child-placing agency is not required to be involved where the prospective adoptive parents are related within the third degree of consanguinity.

Chairman Close stated on page 2, section 3, paragraph 1, the language reads that no person can arrange for the placement for a child. He felt a blood relative should be able to arrange for a placement of a child. This would allow a girl's mother to help her find a place for her child. Senator Keith Ashworth stated this would allow the parent to find a home for the child with an unrelated person and he felt it would be wrong.

Senator Raggio stated other than the case of a relationship between the natural mother and the prospective adoptive parent, there should not be direct contact between them. This will open up all the problems of blackmarket babies and the problems of the natural mother revoking the consent and harassing the adoptive parents. The direct placement of babies has caused all these problems.

Senator Wagner stated other states have allowed this and there appear to be no problems. She felt Senator Raggio was being too rigid in looking at the options available to a mother. Senator Raggio stated the relationship of the mother is severed once and for all, under law and the mother has no further legal rights and that is purposeful. There should be no strings left attached to that child by the natural mother.

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Senator Ford stated there is a different opinion among people who have been adopted and the adoptive parents than there was a number of years ago.

Chairman Close stated the only change he would suggest in the bill would be to allow blood relatives to assist in the placement of a child, this would not necessarily result in the mother knowing where the child will be placed. It gives a mother some emotional and practical support in finding ways to have the baby adopted. Senator Keith Ashworth stated he would rather have an attorney give advise to the prospective mother than a blood relative. They could recommend one of the child-placing agencies.

Senator Hernstadt read from the Legislative Counsel Bureau Report of March 1963 regarding adoptions which Senator Raggio had referred to earlier.

Senator Keith Ashworth stated the law as presently written appears to be working satisfactorily and should be left alone. Senator Raggio stated it is working 99% of the time very well. Senator Wagner stated the Welfare Department had testified on S. B. No. 372 and did not appear to have any problems with it as drafted. Senator Raggio answered he did not feel they were that eager to support the bill.

The committee decided to postpone discussion on S. B. No. 372 to another day due to lack of time.

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

Respectfully submitted:


Shirley LaBadie, Secretary

APPROVED BY:


Senator Melvin D. Close, Chairman

DATE: April 2 1981

SENATE AGENDA

COMMITTEE MEETINGS

EXHIBIT A

Committee on JUDICIARY, Room 213.

Day MONDAY, Date March 30, 1981, Time 9:00 a.m.

S. B. NO. 416--Specifically allows employment of prisoners on public works projects.

S. B. NO. 432--Increases number and allowances of costs for expert witnesses.

S. B. NO. 435--Expands duty of agencies of criminal justice to disclose records of criminal history to certain persons.

TUESDAY, March 31, 1981, 9:00 a.m.

S. B. NO. 436--Provides variable rate of interest for judgments.

S. B. NO. 437--Broadens definitions or increases penalties for certain crimes and amends miscellaneous criminal laws.

S. B. NO. 438--Amends provisions relating to corporations.

S. B. NO. 439--Removes restriction on renewal of reservation of name for corporation.

WEDNESDAY, April 1, 1981, 9:00 a.m.

S. B. No. 415--Expands definition of "condominium" to cover mobile home parks.

S. B. NO. 429--Regulates sale of time-share estate and time-share licenses.

A. B. NO. 205--Fills gap and makes technical corrections in statute on registration of convicts.

A. B. NO. 232--Clarifies age of and eliminates citizenship requirement for directors of corporation.

THURSDAY, April 2, 1981, 9:00 a.m.

S. B. NO. 440--Changes monetary amount for jurisdiction of courts and conforms certain statutory provisions to constitutional provisions relating to jurisdiction.

SENATE COMMITTEE ON JUDICIARY

DATE: March 30, 1981

EXHIBIT B

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME

ORGANIZATION & ADDRESS

TELEPHONE

Bill Curran Club of U.A. 386-4765

Bob Shrivver NTLA 883-2577

STEVE ROBINSON P... 855-5048

Warren W Goeder NTLA 329-6275

Ned Salomon EC JUV C. 6493611

Bill Lewis Carson Cir. Probation Dept. 882-2736

of ... Al... 4x77

... SCC 359-6955

J. ... VISITOR ...

... 55...

S. B. 425

SENATE BILL NO. 425—COMMITTEE ON JUDICIARY

MARCH 17, 1981

Referred to Committee on Judiciary

SUMMARY—Increases number of district judges in eighth judicial district. (BDR 1-958)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: Yes.

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

AN ACT relating to the district courts; providing for the addition of judges to the eighth judicial district; and providing other matters properly relating thereto.

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

- 1 SECTION 1. Chapter 3 of NRS is hereby amended by adding thereto
2 a new section which shall read as follows:
3 *For the eighth judicial district there shall be 16 district judges.*
4 SEC. 2. NRS 3.010 is hereby amended to read as follows:
5 3.010 1. The state is hereby divided into nine judicial districts, as
6 follows:
7 First judicial district. The counties of Storey and Carson City consti-
8 tute the first judicial district.
9 Second judicial district. The county of Washoe constitutes the sec-
10 ond judicial district.
11 Third judicial district. The counties of Churchill, Eureka and Lander
12 constitute the third judicial district.
13 Fourth judicial district. The county of Elko constitutes the fourth
14 judicial district.
15 Fifth judicial district. The counties of Mineral, Esmeralda and Nye
16 constitute the fifth judicial district.
17 Sixth judicial district. The counties of Pershing and Humboldt consti-
18 tute the sixth judicial district.
19 Seventh judicial district. The counties of White Pine and Lincoln con-
20 stitute the seventh judicial district.
21 Eighth judicial district. The county of Clark constitutes the eighth
22 judicial district.
23 Ninth judicial district. The counties of Douglas and Lyon constitute
24 the ninth judicial district.
25 2. [For] *Except as otherwise provided in this chapter, for each of*

1 the judicial districts [, except the first, second and eighth judicial dis-
2 tricts,] there shall be one district judge. For the first judicial district there
3 shall be two district judges. For the second judicial district there shall be
4 seven district judges. [For the eighth judicial district there shall be 12
5 district judges.]

6 SEC. 3. Section 1 of chapter 556, Statutes of Nevada 1979, at page
7 1103, is hereby amended to read as follows:

8 Section 1. NRS 3.010 is hereby amended to read as follows:

9 3.010 1. The state is hereby divided into nine judicial districts,
10 as follows:

11 First judicial district. The counties of Storey and Carson City
12 constitute the first judicial district.

13 Second judicial district. The county of Washoe constitutes the
14 second judicial district.

15 Third judicial district. The counties of Churchill, Eureka and
16 Lander constitute the third judicial district.

17 Fourth judicial district. The county of Elko constitutes the
18 fourth judicial district.

19 Fifth judicial district. The counties of Mineral, Esmeralda and
20 Nye constitute the fifth judicial district.

21 Sixth judicial district. The counties of Pershing and Humboldt
22 constitute the sixth judicial district.

23 Seventh judicial district. The counties of White Pine and Lincoln
24 constitute the seventh judicial district.

25 Eighth judicial district. The county of Clark constitutes the
26 eighth judicial district.

27 Ninth judicial district. The counties of Douglas and Lyon con-
28 stitute the ninth judicial district.

29 2. Except as otherwise provided in this chapter, for each of the
30 judicial districts there shall be one district judge. For the first judi-
31 cial district there shall be two district judges. [For the second judi-
32 cial district there shall be seven district judges.

33 3. District judges shall be elected as provided in NRS 3.050.
34 Whenever a vacancy occurs in the office of any district judge it
35 shall be filled as provided in NRS 3.080.]

36 SEC. 4. NRS 3.020 is hereby amended to read as follows:

37 3.020 In judicial districts where more than one judge has been pro-
38 vided for [by NRS 3.010, such judges shall] , *the judges* have concurrent
39 and coextensive jurisdiction within the district, under such rules [and reg-
40 ulations] as may be prescribed by law, and the district judges therein
41 [shall have power to] *may* make additional rules [and regulations,] ,
42 not inconsistent with law, which will enable them to transact judicial busi-
43 ness in a convenient and lawful manner.

44 SEC. 5. NRS 3.040 is hereby amended to read as follows:

45 3.040 1. The district judges [provided for in NRS 3.010] shall also
46 serve as ex officio circuit judges, and in that capacity shall perform such
47 judicial duties as may be designated by the chief justice of the supreme
48 court as [hereinafter] provided [.] *in subsection 2.*

49 2. The chief justice [of the supreme court] shall seek to expedite
50 judicial business and to equalize the work of the district judges, and shall

1 provide for the assignment of any district judge to another district court
2 to assist a court or judge whose calendar is congested, to act for a district
3 judge who is disqualified or unable to act, or to sit and hold court where
4 a vacancy in the office of district judge has occurred.

5 SEC. 6. NRS 174.125 is hereby amended to read as follows:

6 174.125 1. All motions in a criminal prosecution to suppress evi-
7 dence, for a transcript of former proceedings, for a preliminary hearing,
8 for severance of joint defendants, for withdrawal of counsel, and all other
9 motions which by their nature, if granted, delay or postpone the time of
10 trial [, shall be made prior to] *must be made before* trial, unless an
11 opportunity to make [any such motion prior to] *such a motion before*
12 trial did not exist or the moving party was not aware of the grounds for
13 the motion [prior to] *before* trial.

14 2. In any judicial district in which a single judge is provided: [by
15 NRS 3.010:]

16 (a) All motions subject to the provisions of subsection 1 [shall] *must*
17 be made in writing, with not less than 10 days' notice to the opposite
18 party unless good cause is shown to the court at the time of trial why the
19 motion could not have been made in writing upon the required notice.

20 (b) The court may, by written order, shorten the notice required to be
21 given to the opposite party.

22 3. In any judicial district in which two or more judges are provided:
23 [by NRS 3.010:]

24 (a) All motions subject to the provisions of subsection 1 [shall] *must*
25 be made in writing not less than 15 days before the date set for trial,
26 except that if less than 15 days intervene between entry of plea and the
27 date set for trial, such a motion may be made within 5 days after entry
28 of the plea.

29 (b) The court may, if a defendant waives hearing on the motion or for
30 other good cause shown, permit the motion to be made at a later date.

31 4. Grounds for making such a motion after the time provided or at
32 the trial must be shown by affidavit.

33 SEC. 7. NRS 281.010 is hereby amended to read as follows:

34 281.010 1. The following officers shall be elected:

35 (a) A governor.

36 (b) A lieutenant governor.

37 (c) Two United States Senators.

38 (d) The number of members of the House of Representatives of the
39 United States to which this state may be entitled.

40 (e) The number of presidential electors to which this state may be
41 entitled.

42 (f) Five justices of the supreme court.

43 (g) District judges. [, as provided in NRS 3.010.]

44 (h) Senators and members of the assembly.

45 (i) A secretary of state.

46 (j) A state treasurer.

47 (k) A state controller.

48 (l) An attorney general.

49 (m) Other officers whose elections are provided for by law.

50 (n) For each county, and the equivalent officers for Carson City:

- 1 (1) One county clerk, who shall be ex officio clerk of the board of
 2 county commissioners and clerk of the district court of his county.
 3 (2) One sheriff.
 4 (3) One district attorney.
 5 (4) One public administrator, except where otherwise provided by
 6 law.
 7 (5) One county assessor, except where otherwise provided by law.
 8 (6) One county treasurer, except where otherwise provided by law.
 9 (7) The number of county commissioners as provided by law.
 10 (8) One county recorder, who shall be ex officio county auditor in
 11 counties having a population of less than 100,000.
 12 (9) Justices of the peace.
 13 (10) Constables, except where otherwise provided by law.
 14 2. The following officers shall be appointed:
 15 (a) Notaries public.
 16 (b) Commissioners of deeds for the respective states and territories of
 17 the United States and foreign countries.
 18 (c) All officers who are not elected.
 19 Sec. 8. The terms of the additional district judges elected in the
 20 eighth judicial district at the general election in 1982 expire on the first
 21 Monday in January in 1985.
 22 Sec. 9. If any provision of this act, or the application thereof to any
 23 person, thing or circumstance is held invalid, such invalidity shall not
 24 affect the provisions or application of this act which can be given effect
 25 without the invalid provision or application, and to this end the pro-
 26 visions of this act are declared to be severable.
 27 Sec. 10. This act shall become effective upon passage and approval.

S. B. 416

SENATE BILL NO. 416—COMMITTEE ON JUDICIARY

MARCH 16, 1981

—
Referred to Committee on Judiciary

SUMMARY—Specifically allows employment of prisoners on public works projects. (BDR 16-1423)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to the department of prisons; specifically allowing the employment of prisoners on public work projects; and providing other matters properly relating thereto.

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

- 1 SECTION 1. NRS 209.461 is hereby amended to read as follows:
2 209.461 1. The director shall:
3 (a) To the greatest extent possible, establish facilities which approxi-
4 mate the normal conditions of training and employment in the com-
5 munity.
6 (b) To the extent practicable, require each offender, except those
7 whose behavior is found by the director to preclude participation, to
8 spend 40 hours each week in vocational training or employment, unless
9 excused for a medical reason.
10 (c) Use the earnings from services and manufacturing conducted by
11 the institutions and the money paid by private employers who employ
12 the offenders or lease space or facilities within the institutions to offset
13 the costs of operating the prison system and to provide wages for the
14 offenders being trained or employed. The director may first deduct from
15 the wages of any offender such amounts as the director deems reasonable
16 to meet any existing obligation of the offender for the support of his
17 family or restitution to any victim of his crime.
18 2. The director, with the approval of the board, may:
19 (a) Equip and operate facilities for services and manufacturing by
20 offenders.
21 (b) Employ craftsmen and other personnel to supervise and instruct
22 offenders.
23 (c) Contract with [government] governmental agencies and private

1 employers for the employment of offenders [.] , including their employ-
2 ment on public works projects under contracts with the state and with
3 local governments.

4 (d) Lease spaces and facilities within any institution of the depart-
5 ment to private employers to be used for the vocational training and
6 employment of offenders.

7 (e) Contract for the use of offenders' services and for the sale of
8 goods manufactured by offenders.

9 (f) Grant to reliable offenders the privilege of leaving institutions of
10 the department at certain times for the purpose of vocational training or
11 employment.

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S. B. 432

SENATE BILL NO. 432—COMMITTEE ON JUDICIARY

MARCH 18, 1981

Referred to Committee on Judiciary

SUMMARY—Increases number and allowances of costs for expert witnesses. (BDR 2-1310)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to court costs; increasing the number and the allowances of expert witnesses; and providing other matters properly relating thereto.

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

- 1 SECTION 1. NRS 18.005 is hereby amended to read as follows:
2 18.005 For the purposes of NRS 18.010 to 18.150, inclusive, the
3 term "costs" means:
4 1. Clerks' fees.
5 2. Reporters' fees for depositions, including a reporter's fee for one
6 copy of each deposition.
7 3. Jurors' fees and expenses, together with reasonable compensation
8 of an officer appointed to act in accordance with NRS 16.120.
9 4. Fees for witnesses at trial, pretrial hearings and deposing witnesses,
10 unless the court finds that the witness was called at the instance of the pre-
11 vailing party without reason or necessity.
12 5. Reasonable fees of not more than [three] five expert witnesses in
13 an amount of not more than [\$250] \$750 for each witness [.] , unless
14 the court allows a larger fee after determining, pursuant to a hearing, that
15 the circumstances surrounding the expert's testimony were of such neces-
16 sity as to require the larger fee.
17 6. Reasonable fees of necessary interpreters.
18 7. The fee of any sheriff or licensed process server for the delivery or
19 service of any summons or subpoena used in the action, unless the court
20 determines that the service was not necessary.
21 8. The fees of the official reporter or reporter pro tempore.
22 9. Reasonable costs for any bond or undertaking required as part of
23 the action.

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S. B. 272

SENATE BILL NO. 272—COMMITTEE ON JUDICIARY

FEBRUARY 19, 1981

Referred to Committee on Human Resources and Facilities

SUMMARY—Permits imposition of fine where imprisonment is suspended for certain first offenders possessing controlled substances. (BDR 40-703)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to controlled substances; permitting the imposition of a fine where imprisonment is suspended for certain first offenders; and providing other matters properly relating thereto.

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

- 1 SECTION 1. NRS 453.336 is hereby amended to read as follows:
2 453.336 1. It is unlawful for any person knowingly or intentionally
3 to possess a controlled substance unless the substance was obtained
4 directly from, or pursuant to, a valid prescription or order of a practi-
5 tioner while acting in the course of his professional practice, or except as
6 otherwise authorized by the provisions of NRS 453.011 to 453.551,
7 inclusive.
8 2. Except as provided in subsections 3 and 4, any person who vio-
9 lates this section shall be punished:
10 (a) For the first offense, if the controlled substance is listed in NRS
11 453.161, 453.171, 453.181 or 453.191, by imprisonment in the state
12 prison for not less than 1 year nor more than 6 years, and may be further
13 punished by a fine of not more than \$5,000.
14 (b) For a second offense, if the controlled substance is listed in NRS
15 453.161, 453.171, 453.181 or 453.191, or if, in case of a first convic-
16 tion of violation of this section, the offender has previously been con-
17 victed of any violation of the laws of the United States or of any state,
18 territory or district relating to a controlled substance, the offender shall
19 be punished by imprisonment in the state prison for not less than 1 year
20 nor more than 10 years and may be further punished by a fine of not
21 more than \$10,000.
22 (c) For a third or subsequent offense, if the controlled substance is
23 listed in NRS 453.161, 453.171, 453.181 or 453.191, or if the offender
24 has previously been convicted two or more times in the aggregate of any

1 violation of the law of the United States or of any state, territory or dis-
2 trict relating to a controlled substance, the offender shall be punished by
3 imprisonment in the state prison for not less than 1 year nor more than
4 20 years and may be further punished by a fine of not more than
5 \$20,000.

6 (d) For the first offense, if the controlled substance is listed in NRS
7 453.201, by imprisonment in the county jail for not more than 1 year,
8 and may be further punished by a fine of not more than \$1,000.

9 (e) For a second or subsequent offense, if the controlled substance is
10 listed in NRS 453.201, by imprisonment in the state prison for not less
11 than 1 year nor more than 6 years, and may be further punished by a
12 fine of not more than \$5,000.

13 3. Any person who is under 21 years of age and is convicted of the
14 possession of less than 1 ounce of marihuana:

15 (a) For the first offense:

16 (1) Shall be punished by imprisonment in the state prison for not
17 less than 1 year nor more than 6 years, and may be further punished by a
18 fine of not more than \$2,000; or

19 (2) Shall be punished by imprisonment in the county jail for not
20 more than 1 year, and may be further punished by a fine of not more
21 than \$1,000, and may have his driver's license suspended for not more
22 than 6 months.

23 (b) For the second offense shall be punished in the manner prescribed
24 by subsection 2 for a first offense.

25 (c) For a third or subsequent offense, shall be punished in the manner
26 prescribed by subsection 2 for a second offense.

27 4. Before sentencing under the provisions of subsection 3, the court
28 shall require the parole and probation officer to submit a presentencing
29 report on the person convicted in accordance with the provisions of NRS
30 176.195. After the report is received but before sentence is pronounced
31 the court shall: [do the following:]

32 (a) Interview the person convicted and make a determination as to the
33 possibility of his rehabilitation; and

34 (b) Conduct a hearing at which evidence may be presented as to the
35 possibility of rehabilitation and any other relevant information received
36 as to whether the person convicted of the offense shall be adjudged to
37 have committed a felony or to have committed a gross misdemeanor.

38 5. Three years after the person has been convicted and sentenced
39 under the provisions of subsection 3, the court may order sealed all rec-
40 ords, papers and exhibits in such person's record, minute book entries and
41 entries on dockets, and other records relating to the case in the custody
42 of such other agencies and officials as are named in the court's order, if:

43 (a) The person fulfilled all the terms and conditions imposed by the
44 court and by the parole and probation officer; and

45 (b) The court, after hearing, is satisfied that the rehabilitation has been
46 attained.

47 6. Whenever any person who has not previously been convicted of
48 any offense under the provisions of NRS 453.011 to 453.551, inclusive,
49 or under any statute of the United States or of any state relating to nar-
50 cotic drugs, marihuana or stimulant, depressant or hallucinogenic drugs

1 pleads guilty to or is found guilty under this section of possession of a
2 controlled substance not for the purpose of sale, the court, [without
3 entering a judgment of guilt and] with the consent of the accused, may
4 [defer further proceedings] impose sentence, including a fine, suspend
5 imprisonment, seal the record and place him on probation upon terms
6 and conditions.

7 7. [Upon violation of a term or condition, the court may enter an
8 adjudication of guilt and proceed as otherwise provided. Upon fulfillment
9 of the terms and conditions, the court shall discharge the person and dis-
10 miss the proceedings against him.

11 8. Discharge and dismissal under this section shall be without adjudi-
12 cation of guilt and is not a conviction for purposes of this section or for
13 purposes of disqualifications or disabilities imposed by law upon convic-
14 tion of a crime, including the additional penalties imposed for a second
15 or subsequent convictions under the provisions of NRS 453.011 to 453.-
16 551, inclusive.] *The record of a person sentenced under subsection 6*
17 *which has been sealed by the court may remain sealed until:*

18 (a) *The defendant fulfills all of the terms and conditions imposed by*
19 *the court and by his probation officer, when the record may be expunged;*
20 *or*

21 (b) *His probation is revoked and the sentence is executed.*

22 [9.] 8. There may be only one [discharge and dismissal under this
23 section] *suspension of sentence under subsection 6* with respect to any
24 person.