

MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON JUDICIARY

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
April 10, 1981

The Senate Committee on Judiciary was called to order by Chairman Melvin D. Close, Jr., at 8:00 a.m., Friday, April 10, 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, Jr., Chairman
Senator Keith Ashworth, Vice Chairman
Senator Don Ashworth
Senator Jean Ford
Senator William H. Hernstadt
Senator William J. Raggio
Senator Sue Wagner

GUEST LEGISLATOR:

Assemblyman Robert M. Sader

STAFF MEMBER PRESENT:

Sally Boyes, Secretary

SENATE* BILL NO. 241--Provides for return of child where petitioner for child custody decree acts wrongfully.

Mr. Robert Sader, Assemblyman, District 32, Washoe County, stated the bill makes minor changes. It provides for a parent bringing a child to this state and attempting to get custody of the child. The court does not take jurisdiction over the case but the court is required to notify the custodial parent where the child is residing. It is a means of letting a custodial parent know where a child is to try to eliminate child snatching. Nevada does not require the court to tell the custodial parent where a child is.

Senator Close asked, under what circumstances does a court decline jurisdiction.

* Assembly

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Assemblyman Sader said if the court finds a decree of custody in another state, jurisdiction is declined. There are ways to take jurisdiction and that would be occasionally when the parent has moved from the state where the decree was granted. This is copied from California law.

Senator Close asked Assemblyman Sader to explain paragraph three line 20 and lines one and two on page two.

Assemblyman Sader said he would have to reference the statement

Senator Don Ashworth stated if the court of this state determines there has been a wrongful taking of the action, as in Section 1, and determines they have no jurisdiction, then there is not a request made by the other state after notification, and the original jurisdiction can be assumed in the case. If the other court does not make a request, then it is turned around and this court shall have initial jurisdiction for the decree.

Senator Close asked if 20 days was adequate time for notification and Assemblyman Sader stated he would like to further study paragraph three. He felt paragraph four was acceptable but the third paragraph does not seem adequate as it is worded.

Senator Hernstadt stated a person should not always assume a child snatching has taken place.

Senator Close asked for an example relevant to paragraph four.

Assemblyman Sader said there is an option there for a parent to return the child to the state from which the child came. This would be an order by the judge.

Senator Don Ashworth stated this would apply to a situation of a parent moving to a new state and the child custody decree being issued in another state.

Assemblyman Sader stated that was not the case. What the paragraph refers to is the uniform child custody jurisdiction act. That is if one is presented with a situation with a

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parent and child from another state and there is a valid decree from that state and the parent still lives in that state, there is valid jurisdiction in the original state and jurisdiction is not taken in this state.

Senator Don Ashworth asked how would an initiating court say they had no jurisdiction and Assemblyman Sader stated that refers to jurisdiction under the terms of the decree.

Senator Raggio gave an example of a child choosing to leave one parent and go to the other. He stated he felt the courts here were handcuffed.

Assemblyman Sader replied he felt wording for a law to include that type of situation would have to be very limited and he would be reluctant to change the law to include that situation.

Senator Close stated when a parent goes to court to change custody, the other parent is aware of that fact because both parents would have to state facts in regard to the matter to the court so a decision could be made. He asked how would a court know of a child snatching.

Assemblyman Sader replied the custodial parent would be in court in that foreign state pleading for the court not to claim jurisdiction. The burden is on the custodial parent to show verified decrees for custody. Then it must be shown that jurisdiction exists despite this foreign order. Notification must be made to the other parent.

Senator Close stated the language on line 10 page two was unusual. He asked what period of time would Assemblyman Sader recommend the court allow to place the child in custody.

Assemblyman Sader suggested 10 days.

SENATE BILL NO. 481--Creates department of corrections.

Mr. Charles Wolff, Director, Nevada State Prisons, stated this bill requests consolidation of two departments. Within the department would be established a division of parole, probation and community services that would be headed by the

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Chief Parole and Probation officer. By consolidating, duplicate work would be eliminated. Both departments now do very similar work. This would improve communication and develop a tracking system for a person being brought into the facility until they exited. Several states, about 26, have some type of consolidation.

Mr. Wolff went on to say that Nevada does not handle misdemeanors on probation. There should not be any kind of stigma, because the parole officer and probation officer are the same, on the prisoner.

Senator Raggio asked if most states combine the two positions.

Mr. Bud Campus, Chief Officer of Parole and Probation, stated the American Correctional Association and National Counsel on Crime and Delinquency recommend this type of organization. That is what this bill recommends.

Senator Raggio asked if California had separate offices and Mr. Campus stated they do. They have over 5000 probation officers and should they have one organization over that entire structure, would be mind boggling. Very large states are not combined for that reason.

Senator Close stated the Chief's position would change from unclassified to classified and Mr. Campus stated that is correct. The language of this bill would make his position classified. This would make one person accountable.

Senator Keith Ashworth asked why there was an increase on page seven, lines 12-14.

Mr. Campus stated that was due to inflation.

Senator Keith Ashworth asked if there was another bill that contained that and would this be needed. Mr. Campus stated no other bill had this and the amount would be needed because of rising costs and the increased volume of people on parole.

Senator Ford asked who is in charge of the institutions. She stated it was not clear from the information on page two, line 27.

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Senator Hernstadt stated that on page one, line four, it stated who was in charge.

Senator Ford stated the amendment should show who the Chief of the Institution is.

Senator Wagner asked to see an organizational chart and how it works. She stated she did not support the Department of Aging and feels consolidation of agencies into other divisions is not economical. She stated she is concerned about mismanagement. She asked what will be saved by consolidating.

Mr. Charles Wolff stated, again, both departments do similar work which makes for duplication.

Senator Wagner asked how many employees are concerned?

Mr. Wolff stated that in terms of savings, he did not know how many could be terminated. This would be looked at over the next two year period. He stated he felt it would be a savings if no additional employees were needed, even though the staff is presently growing.

Senator Wagner asked if this was part of the Governor's executive budget.

Mr. Wolff stated this was recommended by the Governor. He said the budgets were submitted individually.

Senator Wagner stated she was not convinced it did not have a fiscal impact. She stated that in 1976-1977 the supplement to that department required \$475,000 or 8% of the appropriation, in 1977-1978 it was \$301,000 or 3%, in 1978-1979 it was \$700,000 or 6% and in 1979-1980 it was \$329,000 or 2%. She stated the Governor's task force did not recommend this consolidation.

Mr. Wolff stated that was correct.

Senator Raggio stated the director's basic organization does not change, it only adds an arm. He felt there is no fiscal mismanagement. Crime cannot be budgeted for.

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Senator Keith Ashworth asked does the statement on page 33, line 26 mean that this department does not need an unmarked automobile. Mr. Wolff stated yes.

Senator Wagner asked where does the parole board fit into this structure?

Mr. Wolff read line 17 page one. He stated they are provided with a space to hold parole board hearings.

Mr. Campus stated there is no additional personnel in either department. Where the savings would come in would be when additional staff would be necessary. If nothing else, the two departments as they are now, have two heads plus the heads of all the phases of each department. He further stated he felt it was unfair to be criticized when, over the last few years, prison officials have been told that there were too many variables in budgeting for the financial needs, so if more money was needed officials were to come back to the committee and ask for it. Each time they do it is unfair to criticize them for that request.

SENATE JOINT RESOLUTION 32--Proposes to amend Nevada constitution to establish staggered terms for district judges.

Mr. James Joyce, representing the District Judges Association, stated this bill is similar to a senate joint resolution that was requested in 1977. It was amended at that time. He asked the committee to consider an amendment to the resolution. He said on page two the resolution says judges who were elected to a six year term in 1984 would have to divide themselves into three classes or draw straws as to who got the two year term, who got the four year term and who got the six year term. The judges do not oppose the staggered terms but do feel it is grossly unfair for a judge to be elected in 1984 for a six year term then make him run for election again in 1986 after only two years in office. The judges request the amendment to read that the first staggered term would be in 1987 and so on. That would give a four year stagger in a six year term. Also, on page two, lines 32-34 the judges felt reatification of the amendment in June 1983 is unnecessary. It should be put on the general

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election ballot of 1984. He stated if this amendment is adopted, judges will have the same problem the Supreme Court has. There will be classes of district judges. One will be drawing one salary and the other class will be drawing a second salary. The association feels Senate Joint Resolution No. 31 and 32 should be consolidated. This would permit salaries to be increased at the same time.

Senator Ford stated this ratification serves the purpose of having the constitutional process accomplished in the most expedient time.

Senator Hernstadt asked for Mr. Joyce to get the language on both issues.

Senator Raggio stated these resolutions were separate because of the pay scale provision. He feels there is a problem caused by separating the two resolutions.

Senator Keith Ashworth asked for re-scheduling of Senate Joint Resolution No. 32 after the language is studied.

David Howard, Secretary of States Office, stated there are some mechanical problems with Senate Joint Resolution No. 32. Lines 47 and 48 on page two require registration for this special election which closes May 21, 1983. It should be May 7, 1983 to coincide with the city elections. On line 49 and 50 page two, the statement is made the county will pay for costs in regard to paper or ballot printing. Who will pay for the people involved in manning the polls. That costs between \$150,00 and \$200,000.

Senator Hernstadt said this would be brought up to the legislature in 1983, assuming the resolution is passed.

ASSEMBLY BILL NO. 342:--Prohibits more than one licensed operation at single establishment.

John Stratton of the Gaming Control Board stated when the regulation was changed to allow racing sports books to operate in a casino, two licenses were issued. This bill

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would allow two licenses to be issued in one. There are no "grandfather" licenses. This bill speaks of racing sports books.

Senator Don Ashworth said there had been a few recently. Lease operations have been very unsatisfactory.

Senator Raggio asked why is that unsatisfactory.

Mr. Stratton said they have found operations of that kind are unsatisfactory because of a lack of control over the lessor. It does conflict with taxing.

Mr. Harlan Elges stated they are required to report on a combined basis whether it is leased or otherwise. The enforcement control is a problem. Coordination of the operations is difficult.

The following Bill Drafting Requests were presented and received for committee introduction:

BILL DRAFT REQUEST 1-1897 (Don Ashworth) (S.B. 530)

Eliminates all exceptions from service on juries.

BILL DRAFT REQUEST 1-1896 (Don Ashworth) (S.B. 529)

Provides for random selection of jurors by computer.

There being no further business, the meeting was adjourned at 9:30 a.m.

Respectfully submitted by:

Sally Boyes
Sally Boyes, Secretary

APPROVED BY:

Mel. Ollney
Senator Melvin D. Close, Chairman

DATED: April 21, 1981

SENATE AGENDA

COMMITTEE MEETINGS

Committee on JUDICIARY, Room 213.

Day Friday, Date April 10, Time 8:00 a.m.

S. B. NO. 481--Creates department of corrections.

S. J. R. 32--Proposes to amend Nevada constitution to establish staggered terms for district judges.

A. B. 241--Provides procedure for return of child where petitioner for child custody decree acts wrongfully.

A. B. 342--Prohibits more than one licensed operation at single establishment.

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