

MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON JUDICIARY

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
May 22, 1981

The Senate Committee on Judiciary was called to order by Chairman Melvin D. Close at 8:05 a.m., Friday, May 22, 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 William J. Raggio
Senator Jean Ford
Senator Don W. Ashworth
Senator William H. Hernstadt
Senator Sue Wagner

STAFF MEMBER PRESENT:

Shirley LaBadie, Committee Secretary

ASSEMBLY BILL NO. 157--Requires report of abuse and neglect of older person and provides penalty therefor.

Assemblyman Coulter stated he was a sponsor of A. B. No. 157. The bill sets up a system of reporting of elderly abuse in Nevada, it can be physical, exploitation, neglect or denial of food shelter or clothing or self neglect. The report must be filed by medical professionals, social workers, nursing homes or anyone else aware of any abuse. The reports are held confidential except in rare circumstances which are explained in the bill. Anyone filing a report is given civil and criminal immunity. The report must be made within three working days to any welfare office, aging services or police office before it is forwarded to the Aging Services Division in Carson City. Failure to report or unlawful disclosure to report would be a misdemeanor. Willful abuse, physical or mental would be a gross misdemeanor, if substantial bodily harm is involved, it would be one to six years. Sixteen states now have mandatory reporting laws.

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He stated abuse of the elderly is not common but abuse of the elderly by members of their own family is a hidden and also national problem. Nevada also has this problem. Reports have been compiled which indicate that 4% of the nation's elderly are abused in one way or another. Other reports indicate that figure to be low, it may be two or three times that high. It is estimated that only one out of every six cases is reported. Nevada State Welfare had 84 substantiated cases last year. Crisis Call in Reno gets about 25 calls a year dealing with elderly abuse. Clark County Protective Services has had contact with 1,200 neglect or abuse cases dealing with seniors of varying degrees. All of this has occurred with no formal reporting system in Nevada.

An increase has been seen since child abuse was required to be reported. Prior to that time only a few hundred cases were reported each year, last year there were 4,000 reported. A mandatory reporting law would force attention on this horrible problem. He said the bill proposed was modeled similar to the child abuse and neglect law. He felt this could work in the area of elderly abuse. The fiscal impact is extremely low, Aging Services stated a Social Worker Trainee of \$14,000 salary would be required. He advised the committee the nurses association was in support of the bill.

Senator Wagner asked if other agencies were in support of the bill. Mr. Coulter stated the Welfare Division and Aging Services Division were also in support and were available to testify. He stated if the bill is passed out of committee, it would have to go to Senate Finance for the fiscal impact.

Ms. Georgian Green, Nevada State Board of Nursing, stated she had testified originally on the bill that if a person committing the abuse is a licensed person, that it also be reported to the licensing board. That was included in the redraft. She asked that the committee approve this bill in order that it can be transmitted to the Finance Committee. She stated she had seen people in nursing and health care facilities who have been grossly mistreated. She indicated there are two cases pending in which nurses are the abusers of elderly persons.

Senator Wagner asked how effective the reporting of child abuse is. Ms. Green stated very effective because she will report even if the doctor will not because her license is on the line.

Mr. Cal Dunlap stated there is a need for a bill of this nature. He stated people have been bringing the elderly into his office to have them committed as incompetents. This is not being done for the welfare of the person being committed but for taking whatever financial gain they can obtain. He felt the section

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dealing with the civil and criminal liability by the reporting of abuse was good. This has been a problem because people are reluctant to do so. This bill will bring more information into his office so the problems can be followed.

Mr. Wallace Roanhaus, Aging Services Division, stated he felt the bill was much needed. He said elderly persons will sometime hibernate in their homes, not eat and this is also a problem as well as neglect. A reporting program will advised the agency what is happening throughout the state. During the next two years the social worker could study and assemble the facts and data and indicate what is needed. He stated he felt the age of 60 should be used in the bill because most of the programs in the division deal with persons of that age group.

ASSEMBLY BILL NO. 336--Requires standard form to record convictions and permits use of form to prove prior convictions.

Judge Guinan, Reno, Nevada, stated he was not aware of the origin of the bill was did realize the reasons for it. There are appellate decisions which state the district attorney must prove that a judgment was rendered in a previous criminal conviction but also in effect, that it was valid to look behind the judgment to see if the defendants rights were properly protected. He stated his first objection comes from his court clerk. There would be fiscal impact on the bill. An additional deputy clerk would be required which is not in the budget. The bill requires the record be made in every criminal case, whereas the usefulness of the record would only be used in a small percentage of the cases or to prove a prior conviction. The Supreme Court had informed him through the administrative office that they will produce a form for both criminal and civil cases which will require considerable information for statistical purposes and a separate requirement should not be made in this bill for the same information.

Judge Guinan stated in the substance of the bill, it requires that the clerk make notations showing that the person convicted was afforded any other right to which he was entitled under the federal and state constitutions and laws. Since the judges are not aware, then the clerk certainly would not know. He said the information requested in this bill is available in the court file at any time and is a public record. This is transferring the duty of the district attorney or someone on his behalf to the clerk of the court who is extremely busy. He stated he is opposed to the bill. If the committee decides to process the bill, he would like to see it made effective one year from now so they could budget for this.

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Judge Guinan suggested if the bill is processed, that the clerk be authorized to charge a fee for those persons other than the district attorney for the record.

Senator Raggio stated he recognized a need for this when you have to prove prior convictions. He said the appellate decisions require that you go behind the judgment and show additional information. Where that is necessary, it can be extracted and is not necessary to keep it in every case. Senator Raggio said this would avoid the necessity of having to go back into the court and get a certified copy of the transcript of testimony to support it. The prosecutor has to prove the prior conviction. This is purpose of the bill.

Judge Guinan said the clerk does not have the time for these additional duties. He said the form would have to be kept up after each court appearance to be complete. An extra clerk would be needed.

Mr. Cal Dunlap, Washoe County District Attorney, stated there is confusion as to whether exemplified copies of convictions are required. There are some constitutional requirements that some information be contained within the conviction, such as the exemplified copy of the conviction. When ordering these from other states, it is requested that they be standardized. He recommended that the bill be passed so the record can be available. It should be uniform throughout.

Senator Raggio asked how many cases a year they have a problem. Mr. Dunlap replied they do not have many. It is only used in cases where conviction is part of the crime or when the defendant himself takes the stand. He said he is interested in the standardization of the document which is prepared ultimately.

Senator Wagner asked how this information is obtained now. Mr. Dunlap stated he gets it from the court, however there is some ambiguity as where it has to be exemplified or certified. At the present time it has to be exemplified. He felt this bill, if passed would save him considerable time. He did not feel it needed to be prepared in every case however.

ASSEMBLY BILL NO. 68--Increases statutory rate for interest on judgments from 8 to 12 percent.

Mr. Bob Shriver, Executive Director, Nevada Trial Lawyers, stated A. B. No. 68 is a similar bill to S. B. NO. 436. At present the increases on statutory rate for interest on judgments has a fixed rate, rather than a variable rate as on treasury bills. This would increase it from eight to twelve percent.

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The assembly bill is more acceptable to the assembly committee. They are more concerned with fixing a rate of interest. He said he would endorse twelve percent interest. He suggested an amendment that the provisions of the act would apply to all events applying on or after July 1, 1980. He said if the committee would like to tie this to treasury bills, he would not be opposed to the suggestion so long as A. B. No. 68 could be amended to coincide with S. B. No. 436.

Mr. Virgil Andersen, of A.A.A. stated he had a concern with the interest rates on S. B. No. 436. It would have an effect on the tort system. One of the questions brought up on S. B. No. 436 on the flow rate of interest, had a tendency of appeals. With respect to about 10% of the auto insurance industry has not indicated this. He said a higher rate of industry may clutter the courts and might provide incentive to encourage more lawsuits. He stated he opposed the bill.

Senator Hernstadt stated he had research done and it is indicated there is only about 25 to 30 cases on appeal on money judgment See Exhibit C attached hereto.

Mr. Dick Garrod, Farmers Insurance Group, stated this bill will increase the cost of insurance to the policy holders and opposed the bill.

Mr. Robert Petroni, Attorney, Clark County School District, stated the district is self-insured. Several cases are pending involving employee dismissal cases. One of the cases has been stalled for three years because criminal charges are involved. Over \$100,000 is involved in that matter. Another is over \$50,000. He had concern if the bill was made retroactive, the interest would be considerable. Chairman Close stated the bill would not be made retroactive. He said there would be some fiscal impact on state government.

ASSEMBLY BILL NO. 447--Revises procedures for providing compensation of certain victims of crimes.

Mr. Howard Barrett, Budget Division, State of Nevada, stated there is a fiscal note attached to the bill. The first year, it is estimated the cost would be roughly \$1,500,000, the second year \$1,800,000. The U. S. Department of Justice did a survey and developed a formula that allows the states to put in certain statistics which comes out with this estimate.

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Senator Wagner said the money was not to come from the state but was to be raised from bailbonds. Mr. Barrett said you could not make an estimate with that kind of financing. There would be periods of windfalls, then periods of nothing.

Senator Raggio stated this provision is to provide to put a lien on the profits a notorious convict might get from publishing a book or public notoriety.

Mr. Barrett stated financing was placed in the original bill when the fiscal note was required which is not there now. He said the estimate is not against the general fund. He said the program now is extremely tight. In the last ten years there have only been about 58 claims and in the last two years only four or five and only \$5,466 has been paid out.

Senator Hernstadt asked what the amount of bail forfeitures has been. Mr. Barrett stated the forfeitures on gross misdemeanors would come to the state when this becomes effective. Clark County had advised them they had collected \$260,000. Washoe County had collected \$221,000, however \$200,000 of that was from Joe Conforte. He said would have left about \$280,000 from the two large counties coming in from that source and is not sufficient to finance this kind of program.

Ms. Marilyn Paoli, Budget Division, stated she had obtained the figures for the number of violent crimes which actually occurred in Nevada during the last five years, they had gone up 26% percent. The average over the last five years was an increase of 18% and used that is the number of increase of crimes. Then assumptions are used and did not eliminate persons who have not filed. One person out of every crime is considered to have filed. There were 8,533 violent crimes in the first year, then it was broken down on the national averages which have these programs. Most of the states having this program do not pay for loss of work time unless the person is out of work for over ten days. Mr. Barrett stated the fiscal impact is a guess but is based on the formula which was developed by the Department of Justice.

Assemblyman Robert Price presented the committee with information regarding A. B. No. 447. See Exhibit D attached hereto. Mr. Price stated the first step towards this bill was in 1969 when Senator Close and Frank Young introduced a bill which became the Good Samaritan Law, then in 1975 a bill was introduced similar to this was requested but not processed. In 1977, Mary Gojac introduced a bill on the Senate side and he had introduced one on the Assembly side, however both of them were rejected because of funding.

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Mr. Price stated last session he and Senator Wagner had tried to get a program through by funding it by charging the criminal by the offense he was charged with. This would go into a fund, this was also killed. He stated he did not feel there would be an fiscal impact this year. He stated Mr. Cal Dunlap would testify later as to some additional funding. This time he has taken the existing program and staff and started working with Mr. Thomas Tait and Attorney General Bryan and worked with the existing structure and expanded the program. He felt they had come up with an adequate source of funding. However a constitutional problem has arisen with trying to assess directly on additional fines on anyone convicted of a felony. Presently the constitution requires that all those fines go to the school fund. A constitutional amendment has been requested so in a few years, they can have it changed to allow for an additional fine that would go to the victim's of crime. Now it will be funded by the bail revocations, such as the Son of Sam revenues if any are forthcoming. In addition, his estimate is that approximately \$250,000 is the amount rather than that of Howard Barrett.

Senator Wagner asked if the fiscal note applies to the third reprint of the bill. Mr. Price stated the program had been substantially changed and felt the fiscal note prepared by Mr. Barrett could not be accurate because of the major revisions in the program. Mr. Price said the overall program would be controlled by the board, the same as the Good Samaritan Law. He advised the committee the maximum that can be paid out is \$10,000.

Mr. Price advised the committee Mr. Thomas G. Tait and Mr. Bill Curran, Clark County, District Attorney were available to answer any questions of the committee.

Mr. Curran stated this program applies only if there is no other source of funds. If insurance is available, that pays first. He stated the projected figure of Mr. Barrett could be the total cost of violent crime in the state, however a great majority of the cases are covered by insurance. Mr. Curran presented the committee with copies of NRS on victim compensation. See Exhibit E attached hereto. Mr. Curran read to the committee a proclamation written by the president of the United States, Ronald Reagan. See Exhibit F attached hereto.

Mr. Curran stated the assembly had made numerous amendments to A. B. No. 447. He said although considerable legislations had been passed this session with regard to criminals, it is a fact

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the perpetrator of a crime is not apprehended. Therefore many persons suffer a loss but cannot be compensated because there is no criminal to prosecute. This legislation is an across the board approach to try mitigate the effects of violent crime on the citizens of the state.

Senator Raggio asked what kind of injuries would be covered and the cost of the program. Mr. Curran stated in Clark County the record has been poor in forfeiting bail bonds. Until the last three or four years, the average yearly forfeiture was \$5,000. With some help from attorneys, favorable legislation and judicial opinions has increased the collection to \$75,000 the first year, \$150,000 the next and this year they expect \$250,000. That money now goes to the county general fund. Mr. Price advised the committee the county is in agreement and language is in the bill that excess money reverts back to the county and they could possibly make money on this program. Mr. Price stated they had set a limit of \$250,000 for the operation of this fund annually. Any funds in excess of this would be returned to the county proportionately. He was not in agreement with the figures projected with Mr. Barrett.

Mr. Price advised that the county had proposed an amendment to make the disbursements quarterly, rather than annually. See Exhibit G attached hereto.

Senator Keith Ashworth asked that the individual sections to the bill be reviewed as to proposed changes and additions.

Mr. Tait stated the purpose of this bill was to expand the Good Samaritan concept to included persons who have been victimized for violent crimes. Some gramatical questions have been raised which can be clarified. NRS 217 is being expanded to include anyone injured by the commission of a criminal act would potentially be qualified for compensation if they had no collateral sources or were a co-conspirator or co-defendant with the offender.

Mr. Tait stated Section 1 of the bill was added which provides that any notariety from criminal behavior would provide 50% of funds to go directly into the compensation fund. Senator Ford asked how that procedure can be done under the proposed language, who could file a lien. Mr. Curran stated that could be clarified to specify the district attorney in the county where the crime was committed. The provision was made at the last minute on the assembly floor.

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The discussion on Section 1 resulted in the committee deciding to further review it for possible amendment.

Mr. Tait stated Section 1.5 states it is a clarification that it is no longer a Good Samaritan Act and is a victims of crime act. Section 2 is cleaning up of the language. Senator Wagner stated removing the language on line 3 was not proper regarding the child of a victim born after his death. He said Section 3 expands to include psychological trauma. Senator Wagner pointed out it had been changed to threat as well as harm.

Senator Hernstadt pointed out there is an inconsistency in Section 5 relating to a victim who is physically injured as the direct result of a criminal act.

Section 6 is clarification of language.

Mr. Tait stated Section 7 deals with the body of the bill. He said the term hearing officer should be removed and the term compensation officer inserted and maintained throughout the bill. Mr. Tait stated the power granted to the hearing officer would be the same as the compensation officer, they are one and the same person.

Senator Wagner questioned why wages and limits were being specified in this section. Mr. Curran said he would have no problem with this, they were trying to alleviate any problem with the high cost of administration. Mr. Tait stated in speaking with Mr. Barrett, only \$5,200 has been expended during the last biennium from the Good Samaritan Fund. One large sum of \$5,000 was paid out, this was because the law is so restrictive. The hearing was necessitated because someone fraudulently submitted a claim, not the actual application.

So far as the administration, some states do it by contract, others by placing it in an existing state function, some place it within the local jurisdictions. He said he did not feel the district attorney office should be accepting claims, and submitting the claims, then ask him to provide an impartial testimony. Mr. Curran stated he would have no problem so long as it would not be a law enforcement person.

Mr. Tait stated he felt Section 8 should be changed, a person cannot apply to the compensation officer because he will not be appointed until after the application is received. It would have to go to the board.

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Senator Ford pointed out that a survivor is not defined anywhere in the bill, the work dependent is defined and suggested it is a better term. That is as close as it comes to saying he is eligible to apply. No where does it state a victim.

Mr. Tait stated Section 8, subsection 2 are changes made by the legislative counsel bureau and it allow reports to be requested.

Section 9, subsection 1 provides for 30 days notice. Regarding subsection 2, he felt the compensation officer according to the existing statutes should be the person holding the hearings. The board could have a three or four day hearing. Chairman Close said someone else should do it, the same person could not investigate, then hold the hearing. Suggestion was made to have a board or designee. However this would have a fiscal impact. Mr. Tait stated he had only witnessed two in six years. Senator Wagner stated this was not a proper analysis because not many people apply.

Senator Ford stated on page 3, lines 11 and 12, it needs to be spelled out what it means by a recommendation.

Mr. Curran stated there could be four possibilities. One would be to approve the application in the amount claimed, secondly to approve it in some modified amount. Third, to deny it and fourth, to conduct a hearing.

Chairman Close said if the board of examiners is not going to be the board, there is an administrative hearing officer set up to hearing all sorts of matters. He could be appointed as the hearing officer. Mr. Price agreed with this suggestion. Mr. Tait stated the entire section of 9, subsection 2 would have to be reviewed in regarding to assigning a hearing officer. Subsection 3 would have to be changed to substitute hearing officer. Mr. Tait said a hearing officer would be used only in circumstances where fraud is involved. The compensation officer would make report to the board of examiners and if the board wants a hearing to be held, it refers down to a hearing officer.

Mr. Curran said with regard to more claims than money, he felt \$250,000 is fully adequate.

Mr. Price stated he did not feel Mr. Barrett or anyone could estimate how many people will apply and be eligible. Most new programs are slow in getting started. Not every single victim of a crime will initiate a claim.

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Mr. Curran stated this program will deal with only a narrow category of people who have nothing.

Mr. Tait stated Section 10 is taking the existing statute on attorneys fees and conforming it to what legislative counsel bureau would rather see in enumeration. It expands the concept from 10% of the amount of the award to 10% of the amount claimed in the application or award, whichever is greater. Mr. Tait stated the average application is approximately \$500. Chairman Close stated he had never seen attorney's fees based on what is claimed. They are based on what they get. Mr. Tait said he had no problems with any changes in that section.

Mr. Tait stated Section 12 determines what will be enumerated in determining the compensation to be granted. Assemblyman Sader stated he had worked on the section and he felt it should be clarified in that section that the state is subrogated, the language sets this out by its wording. He said the bill requires a determination within 30 days and insurance and law suits and alternative sources may not be paid until long after that time. The idea is to provide speedy financial assistance to a person in need. It is the same rationale as no fault insurance.

Mr. Tait said Section 13 makes some gramatical changes and adds that the earnings and support not to exceed \$150 per week. Senator Wagner questioned if it be a policy decision whether to go this way or be out of work so many days. Mr. Curran stated he would be agreeable either way. It also sets out the limit that no award will be for less than \$100 or more than \$10,000.

Senator Wagner asked in reference to Section 14 if there are any negatives to reducing the time period from two years to 60 days. Mr. Curran stated there may be a problem if some persons do not get it going in that period of time.

Chairman Close asked why they were taking out the requirement to report within 5 days to the police department. Mr. Tait replied he felt it should be in. Mr. Price stated in the original version, it had been requested that they must cooperate with the police officer. Chairman Close stated the bill drafters do not take out things like that unless it is requested.

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Mr. Cal Dunlap stated he had some comments to offer on the source of funding. He felt it should come from the criminal rather than the taxpayer. The bill diverts money from the county. He suggested in addition to what is suggested that a provision is made that the defendant in criminal cases where probation is granted have imposed that a sum of a minimum of \$50 and maximum of \$500 as a condition of probation be paid into the fund. That should compensate the entire matter of funding. He suggested this be amended to become effective September 1, 1981. He said many of the crimes he handles are economic crimes and these people are not being hit with any punishment when they are getting probation and they should pay for the victims of other crimes.

Mr. Curran stated he had no problem with the September 1 starting date and his ideas were good for alternate funding.

Mr. Tait stated Section 15, subparagraph (b) changes the language regarding continuing relationship. On subsection 2, it gives the power to do something which the compensation officer has never had to do. This will provide that he cannot deny an award, it can only be done by the board. Mr. Curran stated Senator Ford had requested that this be deleted and he had no problem with that suggestion.

Chairman Close suggested that Section 16 regarding subrogated be broadened to beyond causitive action, it has to be by receipt of anyone.

Mr. Pat Pine stated he had a suggestion which had not been discussed yet. He had not been aware of the dispute over the funds which this would require. As the county encumbers funds to a certain extend for other governmental purposes, it could be that if the fund short, an encumbering process could be adopted. He suggested language could be prepared in this regard to be put into the bill. He said the county is supportive of the concept of the bill, however had some problem with the original bill in relation to forfeitures related to traffic. This could amount to \$1,400,000 on this alone. This pays for a large part of the court system.

Mr. Tait stated Section 19 sets out the penalty for misrepresentation or fradualent application. Section 20 is the section on collection. Section 21 gives the compensation officers the ability to contact law enforcement bureaus and receive information regarding the crimes that they can formulate and report to the board.

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Mr. Pine stated he suggested an additional amendment which is language which has been used in other bills which declares that the reduction of revenue is a legislative mandate under the new tax package. This appears on the handout. See Exhibit G attached hereto.

There being no further business, the meeting adjourned at 10:45 a.m.

Respectfully submitted:

Shirley LaBadie
Shirley LaBadie, Secretary

APPROVED BY:

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

DATE: May 28, 1981

SENATE AGENDA

COMMITTED MEETINGS

EXHIBIT A

Committee on JUDICIARY, Room 213.

Day Friday, Date May 22, Time 8:00

AMENDED MEETING SCHEDULE

A. B. No. 68--Increases statutory rate for interest on judgments from 8 to 12 percent.

A. B. No. 157--Requires report of abuse and neglect of older person and provides penalty therefor.

A. B. No. 269--Permits district attorney to refer person suspected of child abuse or neglect to social agency for treatment or counseling.

A. B. No. 447--Revises procedures for providing compensation to certain victims of crimes.

A. B. No. 456--Increases fee charged for filing of certain papers by nonprofit corporations.

SENATE COMMITTEE ON JUDICIARY

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EXHIBIT B

PLEASE PRINT	PLEASE PRINT	PLEASE PRINT	PLEASE PRINT
NAME	ORGANIZATION & ADDRESS	TELEPHONE	
<i>He Metele</i>	<i>Human Resources</i>	885-4730	
VINNET FISH	WELFARE	885-4771	
Bill Curran	Clark County DA Office	386-4765	
Thomas G. Tait	Clark County D.A. Office	386-4779	
Marilyn Paris	Budget Div	885-4065	
Steve Coulter	Assembly #27		
Bob Shriver	NEV. TRIAL LAWYERS ASSN	889-3577	
Dick Gerrard	Farmers Ins Group	882-1890	
Vigil Anderson	RFA	772-1890	
J. Greene	NV State Bd of Nurs	786-2778	
PAT Marchese	Clark County		

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KEITH ASHWORTH, *Senator, Chairman*
Arthur J. Palmer, *Director, Secretary*

INTERIM FINANCE COMMITTEE (702) 885-5640

DONALD R. MELLO, *Assemblyman, Chairman*
Ronald W. Sparks, *Senate Fiscal Analyst*
William A. Bible, *Assembly Fiscal Analyst*

ARTHUR J. PALMER, *Director*
(702) 885-5627

FRANK W. DAYKIN, *Legislative Counsel* (702) 885-5627
JOHN R. CROSSLEY, *Legislative Auditor* (702) 885-5620
ANDREW P. GROSE, *Research Director* (702) 885-5637

April 3, 1981

EXHIBIT C

M E M O R A N D U M

TO: Senator William H. Hernstadt
FROM: Donald A. Rhodes, *Chief Deputy Research Director*
SUBJECT: Number of Cases Appealed to the Supreme Court in
Which Money Judgments are Involved

According to Jane Nelson, supervising staff attorney for the Nevada supreme court, (phone 885-5189) the supreme court had 726 appeals before it during 1980. Ms. Nelson says that 273 of those cases were civil matters. One of her attorneys reviewed about 50 of the civil cases for us and determined that about 10 percent of those cases related to matters in which money judgments were involved. Using this figure, it could be estimated that approximately 25 to 30 cases before the Nevada supreme court last year concerned money judgment matters.

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fees may influence the amount of the recovery. Finally, restitution may also play a role in the overall scheme of victim compensation, although it may be of less direct interest to the claimant than other benefit provisions. The various options states employ in defining and limiting their victim compensation benefits are examined below.

2.4.1 Upper Limits

Table 2.1 lists the maximum award provisions of the 29 existing compensation statutes. As that table shows, most statutes simply establish a maximum dollar figure which may be paid to a claimant for the aggregate of his losses. Washington State, however, fixes no maximum in cases where the victim survives, but does set a maximum for payments to dependents. Among other American jurisdictions, Ohio and Texas have the highest specified maximum, \$50,000. Maryland's upper limit is \$45,000, but additional expenses are compensable in certain cases. The majority of jurisdictions fix limits of \$10,000 or \$15,000.

Table 2.1
Upper Limits on Victim Compensation Benefit Payments in U.S. Jurisdictions

Alaska	\$25,000	per victim/\$40,000 for two or more survivors
California	\$10,000	medical/\$10,000 lost earnings/\$3,000 rehabilitation
Connecticut	\$10,000	
Delaware	\$10,000	
Florida	\$10,000	
Georgia	\$ 5,000	for Good Samaritans
Hawaii	\$10,000	
Illinois	\$10,000	
Indiana	\$10,000	
Kansas	\$10,000	
Kentucky	\$15,000	
Maryland	\$45,000	unlimited permanent disability and death benefits
Massachusetts	\$10,000	
Michigan	\$15,000	
Minnesota	\$25,000	
Montana	\$25,000	per victim/\$1,100 funeral
Nevada	\$ 5,000	maximum "Good Samaritan"/\$1,000 maximum rape
New Jersey	\$10,000	
New York	Unlimited	medical/\$20,000 wage loss
North Dakota	\$25,000	
Ohio	\$50,000	
Oregon	\$23,000	
Pennsylvania	\$25,000	loss of earnings or support/\$15,000 death benefits
Rhode Island	\$25,000	
Tennessee	\$10,000	
Texas	\$50,000	
Virginia	\$10,000	
Washington	Unlimited	amounts set by Workmen's Compensation
Wisconsin	\$10,000	each victim/\$2,000 funeral costs

3. An order for compensation may be made whether or not any person is prosecuted or convicted of any offense arising from the act on which the claim for compensation is based.

(Added to NRS by 1969, 1153)

217.190 Incidents to which NRS 217.010 to 217.270, inclusive, apply; affidavits of police officers. The board may order the payment of compensation in accordance with the provisions of NRS 217.010 to 217.270, inclusive, for physical injury to or death of the victim which resulted from an attempt to prevent the commission of crime or to arrest a suspected criminal or aiding or attempting to aid a police officer to do so. If physical injury to or death of a person results from aiding or attempting to aid a police officer as provided in this section, no compensation may be allowed by the board unless such police officer files with the board an affidavit in support of any claim which may be made.

(Added to NRS by 1969, 1153; A 1975, 1294)

217.200 Nature of compensation; certificate for meritorious citizen's service.

1. The board may order the payment of compensation and the award of a governor's certificate for meritorious citizen's service to a victim as defined in subsections 1 and 2 of NRS 217.070 for:

(a) Medical expenses, and nonmedical remedial care and treatment rendered in accordance with a religious method of healing, actually and reasonably incurred as a result of the personal injury or death of the victim;

(b) Loss of earning power, actually and reasonably incurred as a result of the total or partial incapacity of the victim;

(c) Pecuniary loss to the dependents of a deceased victim;

(d) Funeral expenses, not in excess of \$1,000, which are actually and reasonably incurred as a result of the death of the victim; and

(e) Any other loss which results from the personal injury or death of the victim and which the board determines to be reasonable.

2. An award of compensation may be made subject to such terms and conditions as the board considers necessary or advisable with respect to payment, disposition, allotment or apportionment of the award.

(Added to NRS by 1969, 1153; A 1975, 1790)

217.210 Time limitations on awarding compensation. No order for the payment of compensation may be made unless the application is made within 2 years after the date of the personal injury or death on which the claim is based, and the personal injury or death was the result of an incident or offense which was reported to the police within 5 days of its occurrence or, if the incident or offense could not reasonably have been reported within such period, within 5 days of the time when a report could reasonably have been made.

(Added to NRS by 1969, 1153)

217.140 Attorney's fees. The board may, as part of any order entered pursuant to the provisions of NRS 217.010 to 217.270, inclusive, allow reasonable attorney fees, but such fees shall not exceed 10 percent of the amount awarded as compensation and shall be paid to the attorney representing the applicant out of, not in addition to, the amount of such compensation. It is unlawful for any attorney to ask for, contract for or receive any larger sum than the amount so allowed. (Added to NRS by 1969, 1152; A 1975, 1293)

217.150 Standards for compensation. In determining the amount of any compensation payable under the provisions of NRS 217.010 to 217.270, inclusive, the board shall so far as practicable, formulate standards for uniform application of NRS 217.010 to 217.270, inclusive, and shall take into consideration rates and amounts of compensation payable for injuries and death under other laws of this state and of the United States. (Added to NRS by 1969, 1152; A 1975, 1293)

217.160 Awarding compensation. The board may order the payment of compensation:

1. To or for the benefit of the injured person;
2. Where the victim has suffered personal injury, to any person responsible for the maintenance of the victim who has suffered pecuniary loss or incurred expenses as a result of such injury; or
3. Where the victim dies, to or for the benefit of any one or more of the dependents of the victim.

(Added to NRS by 1969, 1153)

217.170 Suspension of proceedings. Upon application made by an appropriate prosecuting authority, the board may suspend any proceedings being conducted pursuant to NRS 217.010 to 217.270, inclusive, for such period as it deems appropriate on the ground that a prosecution for an offense arising from the act or omission to act on which the claim for compensation is based has been commenced or is imminent. (Added to NRS by 1969, 1153; A 1975, 1293)

217.180 Order for compensation: Considerations.

1. In determining whether to make an order for compensation, the board shall consider the provocation, consent or any other behavior of the victim which directly or indirectly contributed to his injury or death, the prior case or social history, if any, of the victim, need of the victim or his dependents for financial aid and other relevant matters.
2. In determining the amount of compensation to be allowed by order, the board shall consider amounts received or receivable from any other source by the victim or his dependents as a result of the incident or offense giving rise to the application.

based upon a preexisting legal obligation on the part of the victim to so defend; or

(d) An attempt to arrest a suspected criminal for any offense under circumstances covered by paragraphs (a), (b) or (c) of this subsection.

2. While attempting to aid a police officer to arrest a suspected criminal for any offense under circumstances other than those covered by paragraphs (a), (b) or (c) of subsection 1.

(Added to NRS by 1969, 1151; A 1975, 1789)

217.080 Expenses of board members. Members of the board shall serve without additional compensation, but are entitled to subsistence allowances and travel expenses pursuant to the provisions of NRS 281.160 while engaged in the performance of official duties under NRS 217.010 to 217.270, inclusive.

(Added to NRS by 1969, 1151; A 1975, 1292)

217.090 Hearing officers: Appointment; qualifications; duties. The board may appoint one or more hearing officers, who must be licensed to practice law in this state, to conduct investigations and hearings and to take testimony in any proceeding pursuant to NRS 217.010 to 217.270, inclusive, but final determinations of any matter shall be only by the board. A hearing officer acting pursuant to this section shall report his findings of fact and conclusions of law to the board, together with the reasons therefor. The board shall act only after consideration of the report and such other evidence as it deems appropriate.

(Added to NRS by 1969, 1151; A 1975, 1292, 1789)

217.100 Application for compensation; medical reports.

1. Any person eligible for compensation under the provisions of NRS 217.010 to 217.270, inclusive, may apply to the board for such compensation. Where the person entitled to make application is:

(a) A minor, the application may be made on his behalf by a parent or guardian.

(b) Mentally incompetent, the application may be made on his behalf by a parent, guardian or other person authorized to administer his estate.

2. Prior to a hearing on any application, the applicant shall submit reports, if reasonably available, from all physicians who, at the time of or subsequent to the victim's injury or death, treated or examined the victim in relation to the injury for which compensation is claimed. If, in the opinion of the board, reports on the previous medical history of the victim or an examination of the victim and report thereon or a report on the cause of death of the victim by an impartial medical expert would aid the board in its determination, the board may order such reports.

(Added to NRS by 1969, 1151; A 1975, 1292; 1977, 958)



EXHIBIT F

Victims Rights Week, 1981

By the President of the United States of America

A Proclamation

For too long, the victims of crime have been the forgotten persons of our criminal justice system. Rarely do we give victims the help they need or the attention they deserve. Yet the protection of our citizens—to guard them from becoming victims—is the primary purpose of our penal laws. Thus, each new victim personally represents an instance in which our system has failed to prevent crime. Lack of concern for victims compounds that failure.

Statistics reported by the Federal Bureau of Investigation and other law enforcement agencies indicate that crime continues to be a very serious national problem. But statistics cannot express the human tragedy of crime felt by those who are its victims. Only victims truly know the trauma crime can produce. They have lived it and will not soon forget it. At times, whole families are entirely disrupted—physically, financially and emotionally. Lengthy and complex judicial processes add to the victim's burden. Such experiences foster disillusionment and, ultimately, the belief that our system cannot protect us. As a Nation, we can ill afford this loss of faith on the part of innocent citizens who have been victimized by crimes.

We need a renewed emphasis on, and an enhanced sensitivity to, the rights of victims. These rights should be a central concern of those who participate in the criminal justice system, and it is time all of us paid greater heed to the plight of victims.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning April 19, 1981, as Victims Rights Week. I urge all Federal, state and local officials involved in the criminal justice system to devote special attention to the needs of victims of crime, and to redouble their efforts to make our system responsive to those needs. I urge all other elected and appointed officials to join in this effort to make our justice system more helpful to those whom it was designed to protect. And I urge all citizens, from all walks of life, to remember that the personal tragedy of the victim is their own tragedy as well.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of April, in the year of our Lord nineteen hundred and eighty-one, and of the Independence of the United States of America the two-hundred and fifth.

Ronald Reagan

EXHIBIT G

SECTION 18 - Subsection 2:

2. If on June 30 of any year the fund contains more than \$250,000, the state treasurer shall distribute the excess to the counties in the same proportion that the money which each county paid to the fund bears to the amount paid to the fund by all counties. The distribution must be made on or before July 31, and the money must be deposited in the general fund of each county.

If on September 30, December 31, March 31 or June 30 of each year, the fund contains more than \$250,000, the state treasurer shall within 30 days distribute the excess to the counties in the same proportion that the money which each county paid to the fund bears to the amount paid to the fund by all counties. The state treasurer shall remit the excess to the county treasurer who must deposit the money remitted in the general fund of the county.

CLARK COUNTY - AMENDMENT TO AB 447 - 3RD REPRINT

SEC. 23. The legislature hereby declares that the provisions of section 1-22 of this bill have the effect of reducing revenues to counties and thereby create the type of expense referred to in subsection 5 of section 3 of Chapter 150, Statutes of Nevada, 1981.

VICTIM OF CRIME COMPENSATION LAWS

<u>Question</u>	<u>Nevada</u>	<u>Minnesota</u>	<u>Alaska</u>	<u>California</u>	<u>Delaware</u>	<u>Hawaii</u>
1. Cover only violent crimes resulting in injury or death?	Yes	Yes	Yes	Yes	Yes	Yes
2. Who provides supporting information, agency or claimant?	Agency	Agency	Claimant	Agency	Agency	Claimant
3. How soon must claim be filed?	2 years	1 year	2 years	1 year +	1 year +	18 months
4. Must crime be reported to police?	Yes	Yes	Yes	Yes	No	Yes
5. Which losses eligible for reimbursement?						
• medical expenses	Yes	Yes	Yes	Yes	Yes	Yes
• loss of earnings	Yes	Yes	Yes	Yes	Yes	Yes
• property loss	No	No	No	No	No	No
• pain and suffering	No	No	No	No	Yes	Yes
• other	funeral	funeral	disfigurement	funeral	---	funeral
6. Must there be a minimum loss to file?	No	Yes	No	Yes	Yes	No
• How much?		\$100		\$100	\$25	
7. Must claimant sustain serious financial hardship?	No	No	No	Yes	No	No
8. For death of victim, who is eligible for award?						
• spouse	Yes	Yes	Yes	Yes	Yes	Yes
• children	Yes	Yes	Yes	Yes	Yes	Yes
• parents	Yes	Yes	Yes	Yes	Yes	Yes

<ul style="list-style-type: none"> • unrelated dependents • other 	Yes Third parties incurring expenses	Yes Third parties incurring expenses	Yes ---	Yes Third party volunteering to pay bills	Yes Third party volunteering to pay bills	No Estate
9. For residents only?	Yes	No	No	Yes	Yes	No
10. Are residents covered out of state?	No	No	?	Yes	Yes	No
11. Ceiling on awards?						
• medical	---	---	---	\$10,000	---	---
• loss of earnings	---	---	---	\$10,000	---	---
• total	\$5,000	\$10,000	\$40,000	\$23,000	\$10,000	\$10,000
12. Are other payments such as insurance deducted from award?	Yes	Yes	Yes	Yes	Yes	Yes
• does this include insurance paid for by victim?	Yes	Yes	Yes	Yes	Yes	No
13. Are attorney's fees paid from award or in addition?	Award	Award	Addition	Addition	Addition	Award
14. Are the following legally required to tell victims of the program?						
• law enforcement	No	Yes	Yes	Yes	No	No
• hospitals	No	No	Yes	Yes	No	No
• others	No	No	No	No	No	Courts
15. Must a victim be a "good Samaritan?"	Yes	No	No	No	No	No
16. Funded by state appropriation?	Yes	Yes	Yes	Yes	Funded from 10% of criminal fines.	Yes
• Other						