

MINUTES OF MEETING - ASSEMBLY COMMITTEE ON JUDICIARY - 55th)-209
SESSION, CHAIRMAN ROY TORVINEN Feb. 24, 1969

Present: Torvinen, Kean, Swackhammer, Fry, Bryan, Schouweiler, Lowman.

Absent: Reid and Prince.

Chairman Torvinen introduced BDR 14-1367*, which provides for expungement of certain criminal records. (*A.B. 45)

Assemblyman Lowman moved it be introduced as a committee bill.

Mr. Torvinen continued. This bill is for the purpose of expunging the records, so that a person who has committed his first felony and completed his sentence, doesn't have to register as an ex-felon. It also provides for a person who has been arrested, but charges were dismissed, not to have any record.

Swackhammer said he presumed that the person who wants this record expunged would have to pay the costs of having the records sealed? "Section 5 looks like it will be almost impossible to comply with."

Kean: "Mr. Chairman, do you want to have the bill introduced and then work on these individual things?"

Fry: "I have another bill coming."

Schouweiler: "Can we wait until the end of the week?"

Kean: "Let's introduce this and get it into print."

Torvinen: "Schouweiler has a couple of ideas".

Kean: "I can see from some suggestions already made that some of you have some ideas."

Kean moved to introduce.

Schouweiler seconded. Unanimously carried.

A.B. 196 - Three day waiting period for the purchase of guns.

Bryan: "Harry (Reid) has a great deal of information on this. I would suggest we reschedule A.B. 196 when Harry can be here."

Torvinen: "At the convenience of the committee, but I will try to lump it with something else in the same general category."

A.B. 231 - which deals with attorneys fees for minors in certain cases.

Close: "This bill was brought to my attention by 2 attorneys in Las Vegas who had, in fact, been appointed by the Court to represent the children. The parents were fighting bitterly over the children, but no one seemed to have the welfare of the children at heart. The Court was brought in because they held no allegiance to either parent, but to the best interests of the children."

Lowman: "What happens in general when the Court appoints an attorney? Is there money to pay this attorney in this situation?"

Close: "In this particular circumstance, there was money made available. There is \$300 made available in most child custody cases, but this doesn't begin to pay the fees".

Bryan: "It depends on whether you are talking about a civil or a criminal case. The law prescribes \$300 in a non-capital case. I don't think the law provides for any set fee in a civil case. This provides for cases that are not criminal."

Torvinen: "The Court appoints a guardian ad litem, who is usually an attorney. A minor, a person under the age of majority, could be a male 20 years of age, and in a divorce suit, for instance, a guardian ad litem would be appointed. I am trying to think of a case where the Court would appoint an attorney for absent heirs. That would be probably \$300, or in the case of an attorney for absent heirs, he would be paid out of the Estate.

I could see in a divorce case where there are adequate assets, if the Court felt attorneys should be appointed, it should be charged back against the husband and wife. Of course, if there was a situation where there were no funds available, there would be no attorney appointed. Then there should be a provision that it will first be paid by the parents, or estate, if there are funds available, and if not, then an attorney should be appointed by the Court."

Bryan: Asked the Chairman if he would have any objection to putting it under Chapter 125, which is the Domestic Relations Chapter, such as divorce, separate maintenance, etc., thereby eliminating confusion.

Swackhammer: "In the case you quoted here, were the parents indigents, or do you know?"

Close: "I don't know".

Torvinen: "The Court usually orders a Welfare Department investigation and they report back to the Court.

Section 2, Page 1, Line 20 is pretty broad language. That just provides for his pay. Line 1, Page 2. That just allows for additional fee. Section 2 of the Act deals with indigent children in any divorce action."

Bryan: "Delete the first paragraph and go with the rest."

"Chapter 159 is the Guardianship Chapter."

"You would have no Attorney-Client relationship with the kids if you were representing either spouse. There might be conflict of interests."

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Mr. Close said he would have no objection to limiting the scope.

Kean suggested appointing a Committee to propose some amendments and present them back to the Committee.

Mr. Torvinen said he thought all they had to do was do away with Sec. 1 and Sec. 3 of the Act and amend Sec. 2 and Sub Sec. 3, and "we might need some work on this particular point". Perhaps a Committee is necessary, but I was trying to get the scope of work narrowed down. " He said the proposed committee should be instructed in the general area in which they were to work.

Do away with Lines 20 to 25 - Lines 17 through 31 as amended, on Page 2. Sections 1 and 3 of the bill are going to have to be taken out."

Schouweiler: "We should go into the separate maintenance area in just a divorce."

A.B. 232 - Provides additional requirements and regulatory measures for collection agencies.

Chairman Torvinen said he had scheduled this for March 3rd. He said A.B. 232 was introduced by Bryan and Reid. "This is actually a bill that the Commerce Department, the Bank Examiners, and the Superintendents of Banks have been working on for a long time, and have had hearings on just recently. These are suggested changes."

Bryan: "Basically, Mr. Tedrowe is in accord with the framework of the bill as it reads."

Prince: "I have had opposition from our collection agency in Ely. It would kill our little agency there with all of the little things he would have to pay for. I would like to propose an amendment that would apply to the counties 80,000 or over only. We rely heavily on our little collection agency. I wouldn't want to put him out of business".

Mr. Kean said he had visited someone (the secretary did not catch the name) and asked him why a man had to be a resident for 6 months and "he did not answer" (why he should be a resident for 6 months before opening a collection agency).

Mr. Brian said if "we could have the investigation as proposed by this bill, then I would agree with you that the 6 months residence would not be necessary".

A.B. 345 - Torvinen: "Would you like to explain this one Mack? This is requested by David Hagen."

A.B. 345 - Extends provision for service of process on director department of motor vehicles in actions arising out of vehicle accidents.

Fry: A.B. 345 states that service of process can be effected upon a party designated as his personal representative in another State or if no one is appointed, you can serve the Department of Motor Vehicles,

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the same as in a non-resident motorists' situation.

Technically, as it now stands, you can't serve anyone in Nevada".

Torvinen: "First of all, if an individual is driving in the State and has an accident, when he survives, you can sue him here, and ordinarily his insurance carrier comes in and defends for him. If he kills himself in an accident here, you have to go where there is an executor appointed or go petition a Court in the proper place, where you have an executor to sue him.

So there is a personal representative appointed in California and he is sued in Nevada, can he come into Nevada and defend, or is there an ancillary proceeding in Nevada to provide for his coming into Nevada to defend the suit?"

Fry suggested he have Hagen come over.

Mr. Torvinen said he had no doubts. He was just trying to think it through in his own mind.

Fry said he would bring Hagen over.

A.B. 245 - Mr. Torvinen said this was another expungement bill. He said to him, 245 was just about unworkable.

Lowman moved indefinite postponement. Prince seconded.

Chairman Torvinen called for further discussion or comment.

Kean: "As I understand it, we will take up the expungement when we get all of the bills together. Does your bill deal with misdemeanors?"

Bryan: A.B. 245 goes into a great deal more than just expungement. It goes into criminals rights.

The Chairman called for the question. Unanimously carried.

A.B. 338 - Permits criminal complaints to be signed before a justice of the peace. Torvinen: "Up until we passed the Criminal Code in 1967, a criminal complaint had to be signed before a magistrate for the purpose of holding a person for a felony. The criminal complaint dealing with misdemeanor cases need be only under oath. There are a number of people who can take oaths; Justices of the Peace, city clerks, and notary publics.

When we passed the 1967 criminal Complaint Act. we made it so that a complaint could be signed only before a magistrate. A

District Judge can't even take a complaint. Frankly, I thought "under oath" was better wording. We have now added "notary public" so that at night a complaint can be signed before a notary public and he doesn't have to run around looking for a Judge. If you include "notary publics" you do not need a District Judge.

Kean: "Any Notary Public can do this?"

Torvinen: "The City Attorneys want this. It is a gross inconvenience for the police and for persons trying to get a complaint signed.

You can prepare your own complaint and have it notarized by any notary public. If the Judge doesn't like it, he will throw it out.

Any citizen can make a citizen's arrest and deliver a person into custody and they can hold him under bail.

The real inconvenience here is for the police officer, so that when he signs a complaint, he can get it notarized, if it is at an inconvenient hour".

Fry moved DO PASS.

Schouweiler Seconded. Unanimously carried.

A.B. 175 - Mr. Bryan promised to have an amendment to this bill tomorrow. He said, "Dini said he would accept any reasonable amendment".

A.B. 255 - Provides a uniform sheriff's fee schedule. ...

A.B. 249, 255, and 372, all deal with uniform fee schedules.

Kean moved DO PASS on 255.

Swackhammer seconded. Unanimously carried.

S.B. 161 - Regarding chattel mortgages.

Kean moved DO PASS.

Schouweiler seconded. Unanimously carried.

S.B. 162, - Lowman moved DO PASS.

Seconded by Prince. Unanimously carried.

Kean moved DO PASS SB 164.

Prince seconded. Unanimously carried.

S.B. 165 -

Bryan: Moved DO PASS S.B. 165.

Schouweiler seconded. Unanimously carried.

S.J.R. 9 - Torvinen - "In December of this year, the then Secretary of Health, Education and Welfare, whose name I don't recall, released a directive to all Health & Welfare Departments who used Federal funds that as of July 69 all Welfare Departments would provide free legal services for any grievance with the Welfare Department. I introduced a similar proposal, and I told Hal Smith just to let that one die. We have legal aid in the big cities to represent these people.

Karl Harris, in reply to a news release, stated he wouldn't possibly have funds to comply."

Schouweiler: "The Welfare Department turned it down because they didn't have adequate funds"

Fry: "What is it going to cost? Who will pay the lawyer?"

Torvinen: "The State."

Schouweiler: "The Federals are requiring the State to come up with an appropriation".

Swackhammer moved DO PASS S.J.R. 9.

Kean Seconded. Unanimously carried.

A.B. 59 - Fry moved DO PASS.

Fry said this provides on the second page for cases which are assigned to one Department and one Judge not to be moved to another Department on the morning of the trial. He said he had talked to Judge Craven, and he had no objection.

Kean asked if this would allow you to escape what you might feel was a prejudiced Judge if you were re-assigned to another Department?

Schouweiler seconded. Unanimously carried.

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A.B. 202 - Torvinen: "This is Mr. Schouweiler's bill. The Supreme Court presently is being paid semi-monthly, and wishes to be paid bi-weekly."

Swackhammer: "Bi-weekly? That means twice a week".

Kean: I don't see why we should by statute should set down when a man is being paid. Let's start a precedent, whereby the computers shall work it out".

Bryan: "Delete the law clerks, Page 2, Line 33. There is a 'kicker'. There are 5 law clerks and 4 legal secretaries. Delete the law clerks and secretaries."

Swackhammer: "Let's amend this out."

Prince seconded.

Schouweiler: "From the dictionary, the preferred meaning of bi-weekly means 'fortnightly' - every two weeks.

Torvinen: "I have a motion to delete from this bill, Page 2, Line 33". Question? All in favor signify by saying 'aye'."

Motion failed. There were 3 for, and 4 against.

Fry: "I would move we referred the whole bill to Ways and Means."

Swackhammer: "NRS 281.120 provides that all other State employees are now paid semi-monthly."

Torvinen: "Russ (McDonald) says by Executive Order, everyone gets paid every two weeks."

Schouweiler seconded Fry's motion (to refer the whole bill to Ways and Means).

Torvinen : Question? There were 4 for, 3 against. By Parliamentary Rule, the motion failed. "The bill will therefore be held for further consideration by the committee".

Chairman Torvinen then adjourned the meeting.