

**MINUTES OF THE
SENATE COMMITTEE ON HUMAN RESOURCES AND EDUCATION**

**Seventy-third Session
April 11, 2005**

The Senate Committee on Human Resources and Education was called to order by Chair Maurice E. Washington at 1:41 p.m. on Monday, April 11, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Maurice E. Washington, Chair
Senator Barbara K. Cegavske, Vice Chair
Senator Dennis Nolan
Senator Joe Heck
Senator Bernice Mathews
Senator Valerie Wiener
Senator Steven Horsford

GUEST LEGISLATORS PRESENT:

Senator Dina Titus, Clark County Senatorial District No. 7

STAFF MEMBERS PRESENT:

Marsheilah D. Lyons, Committee Policy Analyst
Patricia Vardakis, Committee Secretary

OTHERS PRESENT:

Michael J. Willden, Director, Department of Human Resources
Jone M. Bosworth, J.D., Administrator, Division of Child and Family Services,
Department of Human Resources
Barbara Legier, Family Program Officer, Division of Child and Family Services,
Department of Human Resources
Michael Capello, Director, Department of Social Services, Washoe County
Lucille Lusk, Nevada Concerned Citizens
Roberta (Bobbie) Gang, Nevada Women's Lobby; Nation Association of Social
Workers, Nevada Chapter

Laura Hale, Chief, Grants Management Unit/DHR, Department of Human Resources
Fernando Serrano, Chairman, Block Grant Commission, Department of Human Resources
Toby Hyman, Social Services Program Specialist, Grants Management Unit, Department of Human Resources
Jerry Hughes, Executive Director, Nevada Interscholastic Activities Association
Eddie Bonine, Senior Director of Student Activities and Athletics, Washoe County School District; Vice President, Region I Representative
Frank Schnorbus, Nevada Homeschool Network
Larry D. Struve, Religious Alliance in Nevada
Lynn P. Chapman, Nevada Eagle Forum
E. Joe Cain, Community Services Agency Development Corporation
Michelle McKee, Administrator, Community Services Agency & Development Corporation

CHAIR WASHINGTON:

I will open the hearing on Senate Bill (S.B.) 298.

SENATE BILL 298: Requires Department of Human Resources under certain circumstances to enter into agreement with Federal Government to determine eligibility for Medicaid at same time Federal Government determines eligibility for Supplemental Security Income Program. (BDR 38-692)

SENATOR DINA TITUS (Clark County Senatorial District No. 7):

This bill came as a recommendation from the Legislative Committee on Persons with Disabilities. One of the Committee's charges was to look at Nevada as it relates to the State's Strategic Plan for People with Disabilities.

Senate Bill 298 would direct the Department of Human Resources to enter an agreement with the federal government so that eligibility for Medicaid could be determined at the same time that the federal government determines eligibility for Supplemental Security Income (SSI). In general, people who receive SSI have been categorically eligible for Medicaid. Currently, the SSI recipients in Nevada need to apply separately for Medicaid. If they were able to apply simultaneously it would streamline the application process. This bill would provide for that streamlining and would assure that Nevadans receiving SSI would have access to Medicaid benefits. We think it is an important first step. It

is part of streamlining the process and narrowing the amount of steps people with disabilities must take to receive benefits.

There is a fiscal note attached to the bill. With the new arrangements at the federal level and the provisions from the claw-back payments, the amount of the fiscal note has not determined and could be considerable.

CHAIR WASHINGTON:

Are we going to use the federal definition for those who are eligible for SSI?

MICHAEL J. WILLDEN (Director, Department of Human Resources):

Social security will use their own definition of disability and their own income guidelines. They would be making not only the income and disability decision for the federal SSI program but, at the same time making the decision for Nevada Medicaid. There is not a new definition.

CHAIR WASHINGTON:

They would use the definition in federal statute.

MR. WILLDEN:

The bill would indicate that when they make the decision for the federal SSI program they would simultaneously make the Medicaid decision.

CHAIR WASHINGTON:

Tell us about the fiscal note.

MR. WILLDEN:

The fiscal note has not been completed. I have provided the Committee a document titled, SB 298/SSI-Medicaid Eligibility ([Exhibit C](#)). There are five issues that I would like to bring to the Committee's attention.

The language in section 1 requires the Department of Human Resources (DHR) to enter into an agreement with the Social Security Administration (SSA). If we continue with that language, the fiscal note for that portion will be approximately \$400,000 over the next biennium. We can get around the fiscal note by redoing the language in S.B. 298 to state that once the SSA makes a decision we would automatically enroll individuals onto Medicaid. Instead of contracting with the SSA to make the decision, we would automatically enroll them. Currently, there is a requirement that individuals make a separate

application. We could turn this around and say once SSA makes the decision, we will automatically enroll them and mail those individuals a notice that they have been enrolled. They would need to sign an application and return it within a certain time frame.

CHAIR WASHINGTON:
What would be the language?

MR. WILLDEN:
I will work with the bill drafter to draft the language.

In the fiscal note, we are working on some required automated systems changes. As currently drafted in S.B. 298 we would have a fiscal note of approximately \$127,000 for automated systems changes, but if we change to what I have described, the fiscal note would be smaller.

There are about 10,400 SSI recipients in Nevada who are not currently enrolled in Medicaid. We know if we automatically enroll those recipients, there will be some cost to the Medicaid budget. We do not know what that cost will be. Because these individuals are not accessing Medicaid, there will probably be a lower cost per eligible person than the 22,000 we already have on the records. We are having difficulty determining the cost for those individuals who are not on the Medicaid records.

CHAIR WASHINGTON:
Are you estimating that there are approximately 10,000 individuals eligible for Medicaid.

MR. WILLDEN:
Yes.

CHAIR WASHINGTON:
How will that be determined?

MR. WILLDEN:
The SSA has a file stating there are 32,000 SSI recipients in Nevada. We have a file stating there are approximately 21,000 to 22,000 people on Medicaid. We do not know about the other 10,000, because we have not heard from them.

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On the bottom of page 1 and continuing on page 2 of [Exhibit C](#) is the claw-back calculation. This is what the claw-back or the phase-down percentage is: Medicaid individuals who are dual-eligible, meaning on Medicaid and Medicare, are going to shift from getting their pharmacy benefit provided by the Medicaid program to having their pharmacy benefit provided by Medicare. To fund that new federal program, the states have to pay a portion of the cost in this formula. For some percentage of these 10,000 SSI recipients who are dual-eligible, we will be responsible for paying the federal government to provide their pharmacy benefits.

CHAIR WASHINGTON:
How long will it take to calculate that number?

MR. WILLDEN:
We should have a ballpark figure by the week's end.

CHAIR WASHINGTON:
This bill is not on our exempt bill list.

SENATOR TITUS:
I hope the numbers are forthcoming and prove not to be prohibitive. If we do not get hard numbers, or it appears this bill would be cost-prohibitive, we can at least move forward and make this permissive or set something in motion so we can move in this direction.

MR. WILLDEN:
We could make the language permissive. We had language such as this in the disability prescription legislation that was passed in the last Legislative Session. The language stated, if we find the cost is not prohibitive, we could return to the Interim Finance Committee (IFC), report the cost and get permission to proceed. It would allow us to continue our work and return to the IFC.

CHAIR WASHINGTON:
We will need the amendment by Wednesday, April 13. We will make the language permissive, which will remove the fiscal note and then IFC can address it.

We will open the hearing on S.B. 296.

SENATE BILL 296: Revises provisions governing abuse or neglect of children.
(BDR 38-372)

JONE M. BOSWORTH, J.D. (Administrator, Division of Child and Family Services,
Department of Human Resources):

Senate Bill 296 is the Division of Child and Family Services proposed bill. Barbara Legier is the Clinical Program Planner for the Division and is responsible for the management of the federal Child Abuse Prevention and Treatment Act (CAPTA) funds. She is here to provide the testimony for the Division.

BARBARA LEGIER (Family Program Officer, Division of Child and Family Services,
Department of Human Resources):

The changes in S.B. 296 originally started out as two bills. We have dropped Assembly Bill 544 and added the language to this bill.

ASSEMBLY BILL 544: Makes various changes to provisions governing
information concerning abuse or neglect of children. (BDR 38-170)

CHAIR WASHINGTON:

Could you identify the sections containing that language?

MS. LEGIER:

The language would be in section 3 of the bill. I have provided the Committee with my written testimony ([Exhibit D](#)) concerning the provisions in S.B. 296.

CHAIR WASHINGTON:

My question concerns the new section described on page 3 of your written testimony. Can an employer call the Division of Child and Family Services (DCFS) for information regarding a current employee, not a potential employee?

MS. LEGIER:

The certain conditions would be that the employee would work directly with children and the employer has a legitimate need for that information to ensure the children are safe.

CHAIR WASHINGTON:

Does that exclude nonprofit organizations?

MS. LEGIER:
There are no exclusions.

CHAIR WASHINGTON:
Are they all included?

MS. LEGIER:
Yes. That would constitute an employer.

CHAIR WASHINGTON:
I wish to clarify the statement on page 3 of [Exhibit D](#) under, "Infants." If health providers, delivery systems or delivery hospitals notice there is a symptom of any illicit drug use by the mother which shows up in the infant, are they to report to Child Protective Services (CPS)? How would they know?

MS. LEGIER:
They would be health-care providers involved in the delivery of the infant. During the birth, the baby would exhibit signs such as: withdrawal, vomiting, tremors and other symptoms.

CHAIR WASHINGTON:
Is there a list of symptoms?

MS. LEGIER:
There is lab work involved to confirm their suspicions.

CHAIR WASHINGTON:
Would you provide the Committee with the list of symptoms?

MS. LEGIER:
Yes.

CHAIR WASHINGTON:
Are blood tests performed? Are there certain indicators in the blood test?

MS. LEGIER:
Yes.

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CHAIR WASHINGTON:
Would you provide that list to the Committee?

MS. LEGIER:
Yes.

CHAIR WASHINGTON:
Do infants have certain indicators that determine what drugs have been used?

SENATOR HECK:
There is very characteristic symptomatology that a newborn may demonstrate that would indicate the mother may have used some illicit substance. Most of time, the mother has been on drug screening before delivery so the physician knows in advance of delivery. If the neonate demonstrates any of the symptoms, then the neonate would have a drug screen done; then medical personnel would know exactly what drug was used.

SENATOR MATHEWS:
If we did prenatal screening rather than after the birth, would that not be better? After delivery we want to take children away from the mothers. It seems we are putting the cart before the horse. Did you consider that aspect?

MS. BOSWORTH:
The language we are proposing is based on the federal legislation. We understand that prenatal care is important for women, but what we are trying to do is have the Nevada statute come into compliance with federal legislation. The federal legislation contemplated concerns for post-birth infants.

CHAIR WASHINGTON:
That does not preclude us from including language in the bill for prenatal care concerning substance abuse by the parents.

SENATOR MATHEWS:
Are your funds attached to the federal regulation?

MS. BOSWORTH:
Yes.

SENATOR MATHEWS:

The language is to bring your Division into compliance. I have problems with the federal legislation that does not look at prevention. Have you ever thought about not accepting federal funding and helping people in other ways?

Ms. BOSWELL:

We receive \$17 million from the federal government through CAPTA, which is important to the State with regard to child abuse. This contemplates that children after they are born are the responsibility of the Division. We are trying to match the federal legislation, look at our responsibilities and make sure we are doing what we need to do after children are born

CHAIR WASHINGTON:

Are you not in the preventative mode?

Ms. BOSWORTH:

We always look at prevention, and we agree the health-care professionals in Nevada, through prenatal care and other programs, could look at taking care of these women. However, our role in the CPS is after the child is born.

CHAIR WASHINGTON:

If both issues could be addressed simultaneously, the mother and child could be together.

Why are you proposing to delete subsection 2, in section 3 of S.B. 296 and replacing it with a new section. How will this work?

Ms. LEGIER:

We went from a paper system to a computerized system. The expungement issue relates to deleting a paper record in the computer system.

SENATOR NOLAN:

This State no longer acknowledges an expungement of a record but, acknowledges a sealing of the record.

Ms. LEGIER:

We propose to change the word to "delete" rather than "expunge," because you cannot seal a computer record.

I will continue to read my written testimony under the heading, "Infants" in [Exhibit D](#). The DCFS requests that the Committee consider the proposed revisions for amendment.

CHAIR WASHINGTON:

Are your amendments attached to your written testimony?

MS. LEGIER:

We will provide an updated version of our amendments.

MICHAEL CAPELLO (Director, Department of Social Services, Washoe County):

We support the proposed amendments by the DCFS. We had two concerns that are addressed by those amendments. One concern was to ensure that the DCFS would manage those requests from employers to check the history. We feel that should be a centralized function because of its importance. Our other concern was the deletion and expungement issue. That provided clarification that unsubstantiated reports would not have identifying data retained in the central registry.

CHAIR WASHINGTON:

Are your counterparts in Clark County in agreement?

MR. CAPELLO:

Yes.

LUCILLE LUSK (Nevada Concerned Citizens):

I have not reviewed the proposed amendments. Looking at the original bill, our concern was section 3 and the removal of subsection 2. If the amendments follow the same pattern and do not change what actually is done, it is not just addressing paperwork going to the computer, but there would be a significant philosophical change.

I have concern about the removal of subsection 2 on page 3. What that language did was provide the legal protection that required removal from the database any identifying information and unsubstantiated complaints. The language in the original bill is replaced with allowing the Division to adopt regulations concerning when information will be removed. That takes away the legal protection. If what it is saying is that the Division will have the power to

adopt regulations saying when information will be deleted, thus losing the legal protection for removal of unsubstantiated information, that concerns us.

CHAIR WASHINGTON:

Can we codify that any unsubstantiated charges will be deleted and not leave it to regulation?

MS. LEGIER:

This information specifically states only substantiated information will be entered into the registry.

CHAIR WASHINGTON:

It needs to be clarified so there is no guesswork. Can that be done?

MS. LEGIER:

Yes.

MS. LUSK:

I agree with Senator Mathews that precautions should be taken prior to the birth of a child. I agree with the concept that a child entering life with those serious disabilities is in need of protection. It appears there are many changes in the amendments.

ROBERTA (BOBBIE) GANG, (Nevada Women's Lobby; Nation Association of Social Workers, Nevada Chapter):

We are neutral on S.B. 296. We had an opportunity to review the amendments and they took care of our initial concerns about the bill. Our primary concern is this CAPTA language is inserted into the child-abuse statutes. We feel it would be better served as a separate section. This may not be able to be done due to the time constraints of the bill deadlines. We would like addiction to be treated as a health problem. We could fund programs designed to meet women's needs, prevention services such as prenatal care and substance abuse counseling, if the money that comes from the federal government through the CAPTA requirements could be put toward providing these services.

CHAIR WASHINGTON:

They are precluded by federal statute.

MR. WILLDEN:

There are a number of programs within the Department of Human Resources that address prenatal substance abuse prevention. Medicaid has programs that address these issues. There are other programs as well.

CHAIR WASHINGTON:

How are these programs funded?

MR. WILLDEN:

The programs are funded through Medicaid with a 50/50 state match. We have federal and state monies going into a number of prevention programs to ensure that there is a healthy successful delivery. This legislation addresses a problem which occurs at birth. I will provide detailed information concerning the programs that are available.

SENATOR MATHEWS:

I know some of the programs and have been involved with a few. I questioned whether there was anything the DCFS could do about prenatal drug abuse prevention.

MS. GANG:

No. All the services are available in all parts of the state. There have been problems with accessing prenatal care and substance-abuse counseling.

CHAIR WASHINGTON:

The two larger counties do a good job of getting the information to those who are on Medicaid or uninsured.

MS. GANG:

The problem is whether the women can access the services. There could be waiting lists or problems locating doctors, especially in the rural areas.

CHAIR WASHINGTON:

What is the procedure if a woman comes to get prenatal care and has a substance-abuse problem?

MR. CAPELLO:

We will refer the woman to the Department of Public Health which has a visiting-nurse program. A nurse will give guidance and provide referrals to services that are available.

CHAIR WASHINGTON:

Do your workers cite the current statutes or CAPTA explaining the potential for separation if the child is born with substance-abuse problems?

MR. CAPELLO:

We do not have direct contact with the woman at that point. The public health nurses are clear about what the potential ramifications are concerning substance abuse.

SENATOR WIENER:

Once there is a determination that the baby has fetal alcohol syndrome, will the child be determined abused and taken from the mother even though the mother may have bonded with the child?

MS. LEGIER:

There is nothing in CAPTA language like you describe.

SENATOR WIENER:

There are different schools of thought on drinking during pregnancy. About five years ago it was thought that an occasional drink was not harmful, and then the recommendations changed.

MS. LEGIER:

The plan of safe care is the first thing that a social worker would do. The first step would not be to remove the child from the mother. The plan of safe care gives the opportunity for the mother, the social worker and the child to work together to resolve those issues.

SENATOR MATHEWS:

If the baby is reported to have substance-abuse symptoms, what is your role?

MS. LEGIER:

The DCFS role, if it were in the rural counties, would respond to a referral for a child protective-service investigation.

MR. CAPELLO:

Once a report is received by the agency, we assess the overall family circumstances surrounding the newborn. We look at the mother's capacity to take care of the baby. Was she prepared? Does she have the basic necessities? We also assess her emotional and mental-health status. Our first option is to develop a safe-care plan. We are cognizant of separating mother from baby at that very crucial time. This issue has evolved over the last ten years. Initially, the inclination was to remove the baby to ensure its safety. This theory has evolved to where public health, treatment providers and child-welfare agencies are coming together to do a more comprehensive assessment of what the family's circumstances are before removing the baby

SENATOR MATHEWS:

How quickly is the assessment done?

MR. CAPELLO:

In our agency, that situation would be a top-priority response. We would respond within the hour after receiving such a referral from a hospital. We would interview the mother, look at medical records, interview family and conduct a home visit. The initial-assessment activities are to see if there is a set of circumstances that will allow us to develop an in-home, safe-care plan. This would take place within the initial 24-hour period. If there are issues of lack of cooperation or information not forthcoming, then we might be looking at removal or have that child remain in the hospital until we can make a determination.

MS. GANG:

The federal law does not contemplate drug-affected infant reports to be made to a law-enforcement agency. It asks that it be made to the CPS. Our current child-abuse reporting law is set up so a mandated reporter can either report to the CPS or a law-enforcement agency. As drafted, our law would permit the health-care provider to make the drug-affected infant report to the police which is not required by the federal law. Federal law requires a prompt investigation by the CPS, not law enforcement. This is a serious concern. We would like to see the CPS do the investigation, receive the reports and have the intervention of law enforcement.

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CHAIR WASHINGTON:

Ms. Legier, was that the intent of the bill?

MS. LEGIER:

The old language does say either CPS or law enforcement. That has not been altered.

CHAIR WASHINGTON:

Ms. Gang, are you requesting only the CPS be notified?

MS. GANG:

Yes. We would like it to read: "reports of infants affected by substance abuse be made to the CPS," and not include law enforcement.

CHAIR WASHINGTON:

There may be law-enforcement issues that need to be addressed such as if there is a methamphetamine lab or illicit sales of substances occurring. The CPS could not handle those types of issues.

MS. GANG:

Those types of circumstances would not be part of the report that would be made by a health-care professional concerning how a newborn is affected by substance abuse.

CHAIR WASHINGTON:

We cannot preclude law enforcement. Steps could be set up to include them.

MS. GANG:

If these types of things were found in the home, then law enforcement would be notified. I was concerned about the report made by the health-care professional.

The presumption cannot be made that a mother cannot take care of the infant, because she was using illegal drugs during pregnancy. The bill states that the child is in need of protection if the infant has been found to be affected by illegal drug use during pregnancy.

CHAIR WASHINGTON:

We are going to hold the bill until Wednesday. Those who wish to make amendments to the bill should meet with the sponsors and submit your amendments by Wednesday.

Ms. GANG:

We understand the necessity of the bill to comply with federal law and access federal funds. We would suggest that when the bill is presented on the Senate floor, the policy statement specifically identify the purpose of the bill, which is to solve the health problems that the child and the family are facing. The intent is not to declare this child is abused and neglected and not to criminalize the actions of the mother.

CHAIR WASHINGTON:

The intent will be noted in the record that it is a policy issue rather than abuse and neglect, comporting with the federal requirements of CAPTA, and making sure that the State receives its federal grant funds under Medicaid.

We will open the hearing on S.B. 297.

[SENATE BILL 297](#): Makes various changes concerning family resource centers and funding of certain public welfare services. (BDR 38-168)

LAURA HALE (Chief, Grants Management Unit/DHR, Department of Human Resources):

I have provided the Committee with a copy of my written testimony ([Exhibit E](#)) concerning S.B. 297 which will combine three existing advisory boards into a single grants-management advisory board, and makes changes to related program-governing provisions.

CHAIR WASHINGTON:

Do you work with all the other service agencies that are in the community?

Ms. HALE:

Yes.

SENATOR WIENER:

Have the family resource centers (FRC) been working on the single point-of-entry concept?

MS. HALE:
Yes.

SENATOR WIENER:
Have you been doing any of this?

MS. HALE:
Yes. We have only done a little.

SENATOR WIENER:
Would this be for all social services?

MS. HALE:
Yes.

CHAIR WASHINGTON:
Would you highlight sections 18 and 19 of S.B. 297?

MS. HALE:
Section 18 defines how the Grants Management Advisory Committee would be created. Our director would appoint the members. The various members who are depicted on page 7, lines 12 through 19 of S.B. 297 were preexisting. The other components mentioned on lines 21 and 22 are something we do with the resource centers. That program serves from cradle to grave. On lines 26 through 29, we were trying to capture how to set up those private, nonprofit public linkages in the community. Regarding lines 30 through 32, every funding source for which we administer grants is targeted to the at-risk population. We wanted to make certain the at-risk population was represented, that we have ethnic diversity and are representing different geographic areas of this State.

On lines 36 through 39, it states that following the initial term, everyone would serve a two-year period. The remaining is standard language. If a member of the Advisory Committee is not a state employee, we would provide a stipend of \$80 per day. That has already been incorporated in our budget. We used monies saved by combining the three boards. This will enable us to pay those members who are not state employees.

By working together, we feel we can make the grants more effective and efficient. This will lessen the staff's work.

Section 19 depicts the duties of the Grants Management Advisory Committee. They would review the requests for grants; the staff would do a preliminary review and then forward them. This would be a subcommittee process initially. We are setting up four different subcommittees around service areas so we can have everyone working on one specific issue. The applications would be reviewed and recommendations for allocations would be made. The subcommittee would submit the recommendations for how they want the monies to be allocated.

They would adopt policies setting forth the criteria to determine for which agencies and institutions to recommend an award of money. Monitoring awards of monies is a standard practice for which we get quarterly reports. We do monitoring visits and report back to our boards. We report on who is or is not meeting their goals and recommend any changes.

I am referring to page 9, lines 3 through 5. We try to do a needs assessment on a cyclical basis to determine if there are specific things that we should be targeting. We have a group that is collating a number of needs assessments that have been done to put into a single report that could be used by the single advisory body to look across the range of services that we would provide.

The language on lines 6 through 11 depicts that joining together as a collaborative board would help that process. At present, we could have six different grants to the same agency within our grants-management unit because we have six funding sources. Grantees will apply once and all these sources can review that application and make recommendations.

FERNANDO SERRANO (Block Grant Commission, Department of Human Resources):
As chairman of the Block Grant Commission, we believe it is a more efficient process. We recently began conducting joint meetings with the Family Resource Center Governing Board. It was interesting to compare notes about the types of strategies we want to employ to assist Nevada's youth and families. It makes sense to take it a step further.

Many community-based services are funded partially or fully by grants. For the people in the field where there are governmental entities, it will be more user-friendly to have one board and one funding stream from which we can access funding for the services we are attempting to provide.

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TOBY HYMAN (Social Services Program Specialist, Grants Management Unit,
Department of Human Resources):
I support S.B. 297.

SENATOR WIENER MOVED TO DO PASS S.B. 297.

SENATOR HECK SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR HORSFORD WAS ABSENT FOR THE
VOTE.)

* * * * *

CHAIR WASHINGTON:
We will hear testimony on S.B. 364.

SENATE BILL 364: Creates advisory committee to association for interscholastic
athletic activities and events. (BDR 34-746)

Senator Dennis Nolan (Clark County Senatorial District No. 9):
The genesis of S.B. 364 was based on a number of contacts I had received
from parents who had school-aged children who were participating in
interscholastic sports. They had a degree of frustration with the Nevada
Interscholastic Activities Association (NIAA) with regard to the way decisions
were made and the way they conducted their business. The NIAA and the
school district have tried to contact me, but I have not had the opportunity to
speak to them. I am willing to dismiss this legislation if the concerns that have
been raised are addressed.

One of the issues was the makeup of the board. The NIAA is made up of
representatives from all the school districts and charter schools. Even though
the NIAA is a public forum and there is opportunity for public testimony, if the
comments of the people who appear before the NIAA are not popular with the
districts, they are dismissed as disgruntled parents. The communications from
those in opposition to the bill categorized those parents who had complaints
before the NIAA as disgruntled.

When I asked what would be the resolution to the problems, the answer was to
put more coaches on the NIAA.

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JERRY HUGHES (Executive Director, Nevada Interscholastic Activities Association):

We try to represent as much of the community and the State as we can. I have provided the Committee with a packet of information ([Exhibit F](#)) concerning the NIAA. On page 6 of [Exhibit F](#), are listed the NIAA staff and board of control which represents a broad range of people. We have an advisory committee in every sport and meet on an annual basis. One of the problems we do have is that we make the rules and regulations and there are those who do not agree. We do have an appeals process. It is difficult to please everyone. I will meet with the individuals who have complaints.

CHAIR WASHINGTON:

What is your position on S.B. 364?

MR. HUGHES:

We are opposed to the bill. We will address any issues brought forth.

EDDIE BONINE (Director of Student Activities and Athletics, Washoe County School District; Vice President, Region I Representative of NIAA)

I work directly with all the athletic directors in the State. I regularly work and meet with the coaches in Washoe County. We have a member of the Nevada Athletic Directors Association (NADA) who sits on our board of control as well. We regularly communicate any concerns or comments to the board. If there is a concern, question or correspondence, we put it on the agenda and discuss it in our regularly scheduled meetings.

SENATOR NOLAN:

If a parent has an issue, how do they bring that before the NIAA? How do you handle those types of complaints?

MR. BONINE:

Usually, I would get a telephone call. I would tell them to put it in writing. I tell them when our meetings are held and that they could address our board and I put this in writing. There is also an appeals procedure.

SENATOR NOLAN:

I will withdraw S.B. 364. Doing so will give me additional time to address the issues with the representatives of the NIAA.

SENATOR CEGAVSKE:

One concern that I have is instructing those students who have dual roles such as high school cheerleader and also as a member of an athletic team that they should not get involved in any other type of activity with any organizations outside of school.

MR. HUGHES:

Cheerleading is something that we just recently adopted as a regulation not as a sport. We follow the guidelines of the National Spirit Group. We have an advisory committee in the State made up of Spirit leaders and follow the guidelines from the advisory group. I do know the students are prohibited from being involved in a high school team and also belonging to a private out-of-school gym.

SENATOR CEGAVSKE:

The concern was that some of the cheerleaders were getting assistance and training from these other organizations. Now they are being limited to only having training from untrained teachers or coaches who have limited experience in cheerleading. In some cases, they are being taught unsafe practices. The issue needs to be reviewed.

SENATOR NOLAN:

Senate Bill 364 is an exempt bill. I request no further action until I have a chance to meet with NIAA and discuss the issues.

CHAIR WASHINGTON:

I will open the hearing on S.B. 402.

[SENATE BILL 402](#): Makes various changes concerning protection of children from abuse and neglect. (BDR 38-1306)

FRANK SCHNORBUS (Nevada Homeschool Network):

Senate Bill 402 requires the CPS or anyone who deals with these children to be trained to protect the constitutional and statutory rights of the people they are investigating. It requires those workers to notify the person or parents of the allegation, not who is making the allegation but what is the allegation. These two components are in the CAPTA legislation that was passed in 2003. I have provided a document ([Exhibit G](#)) which addresses this legislation. This is a

reflection of what is in federal law and we propose to put it in state statute to make it easier for this to happen.

MR. CAPELLO:

The bill is straightforward. The only question we had was in section 3, subsection 5. What needs to be avoided is having social workers in a position where, on any kind of a case-by-case basis, they have to articulate someone's legal rights. The intent is that there is a general summary of legal rights for the subject of an abuse or neglect investigation. That pamphlet would give a general description of a person's rights. I have no objection to staff being compelled to provide the pamphlet to the parties. I become concerned about having social workers interpreting a person's rights. If what is required is that the social worker is expected to provide the pamphlet which covers the legal rights of the individual, there is no objection from Washoe County.

MS. BOSWORTH:

I reiterate the testimony of Mr. Capello. We have the same concerns. We do not want social workers practicing law or acting as law enforcement.

MR. SCHNORBUS:

My only concern would be that the social worker hands the pamphlet to an individual and then begins the investigation without any explanation.

CHAIR WASHINGTON:

I think the pamphlet has not been generated. The pamphlet would be created after the passage of the bill. The agencies would create a pamphlet covering all the parental rights and there would be some minimal training as to how the pamphlet is delivered.

SENATOR HECK:

Would it be possible to have something like the Miranda Rights law as a brief paragraph verbalized by the social worker as they are handing the individual the pamphlet?

MS. BOSWORTH:

Our concern is that we do not want to make the CPS workers attorneys or law enforcement. We do not want them to give Miranda Rights. Nevada and most states have a handbook that tells an individual their rights. For this pamphlet, we would get public input on what the pamphlet should contain to assure that it

is clear and usable. There should be a general list of parental rights. We do not want to put social workers in the difficult position of being asked follow-up questions and not being able to provide accurate information. We anticipate that it would contain information about who a person could contact for further assistance.

SENATOR WIENER:

Would you also have a pamphlet in Spanish?

MS. BOSWORTH:

Yes. Any pamphlets and materials we prepare need to reflect the diversity of the population we serve.

MS. LUSK:

We are in support of S.B. 402. If the person is just to be handed a pamphlet and the investigation proceeds apace without an opportunity for a person to review their rights, then the rights are not going to mean much. Senator Heck suggested a brief statement so the person does know what it is they are facing. One of the most important aspects is that the person is informed of any allegations made against them. A simple outline as opposed to a lengthy explanation would be valuable.

CHAIR WASHINGTON:

There needs to be training on the delivery of the pamphlets.

MS. LUSK:

The simple outline should not be like Miranda Rights because you do not want to make that legal implication, but the social worker should clearly state the allegations and the individual's initial rights.

CHAIR WASHINGTON:

Would that be included in the bill?

MS. LUSK:

Yes. We need a basic outline of what is expected under the law.

LARRY D. STRUVE (Religious Alliance in Nevada):

The Religious Alliance in Nevada is neutral on S.B. 402. My personal view is to echo the concepts you have heard. If the pamphlet is mandated, in addition to

providing a statement of the legal rights of the individual, it would be helpful if the pamphlet states where they get information on how the procedures affect them and where they can go to get help.

Taking away a baby or child from the mother or out of the family setting is a serious situation. Caseworkers do not understand the law and could possibly give incorrect information. When an individual wants to get the correct information or office, they can be in a bureaucratic maze. I recommend that additional language be added to lines 3 through 20 on page 3, which includes the referencing in the pamphlet of any agency or official who can respond to any complaints or questions regarding the procedures involved in a particular case.

CHAIR WASHINGTON:

We are checking with our Committee Counsel as to what would be appropriate. We want to protect the social workers, because they are not lawyers or law enforcement. There could be legal ramifications if this is not done properly.

LYNN P. CHAPMAN (Nevada Eagle Forum):

We are in support of S.B. 402. I am here to tell you why we need this bill. There was an episode in which a CPS worker was banging on a woman's front door and demanding the door be opened. The woman did not know what to do. I told her if her screen door was locked, then she could open the front door and ask the caseworker why he was there. The caseworker again demanded entrance into the home. She closed the door and the caseworker went to the back of the house and tried the sliding glass door and windows for entry into the house. I was hearing this through the phone. The caseworker kept saying that he was going to call the sheriff. I told the woman to let him call the sheriff, but advised her they will need a warrant if she did not want them to enter her house.

I advised her to call the social worker's supervisor, which she did. The supervisor told the woman that all they wanted to do was check to see that food was in the house. The woman said she was going to call an attorney and was told that the CPS was above the law. We need parents to understand their rights.

MR. SCHNORBUS:

I feel confident that the training would include this type of scenario. The training would advise the social worker what to say and how to direct the inquiries of the individual.

CHAIR WASHINGTON:

We will hold the bill until Wednesday to receive any amendments.

MARSHEILAH D. LYONS (Committee Policy Analyst):

If the intent of the Committee is to make sure people receive notification of their rights, there are other statutes that require notification. In this case, it would be done by a pamphlet. If the Committee would like to have something verbalized to the person, then that is something that needs to be looked at further. If the Committee's intent is to notify by pamphlet and the concern is that the information be comprehensive, then a simplified version of that could be specified.

MR. SCHNORBUS:

It is my understanding that the CPS workers get training on the legal rights of the individuals. It does not require them to explain those rights to the individuals. They are required to verbalize the allegation to the person at the time of initial contact. The two components are the training that is required and the rights of the person being investigated. The CPS worker is not required by federal law to go further.

CHAIR WASHINGTON:

We should amend the bill to read that the pamphlet should have a reference to whom they can contact and their rights based on the State's statutes.

MS. LUSK:

The major issue is to assure that the individual is informed of the allegations against them.

CHAIR WASHINGTON:

There would be no change to that requirement.

SENATOR CEGAVSKE MOVED TO AMEND S.B. 402.

SENATOR HECK SECONDED THE MOTION.

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SENATOR MATHEWS:
The pamphlet is going to serve as a warrant.

CHAIR WASHINGTON:
It is not a warrant.

SENATOR MATHEWS:
What is the pamphlet going to do? The pamphlet will be handed to the individual and then the social worker will say, "I want to see if there is food in the house." Will this happen?

CHAIR WASHINGTON:
No.

SENATOR MATHEWS:
Why is the CPS worker at the person's door?

CHAIR WASHINGTON:
There has been an allegation made.

MR. SCHNORBUS:
The pamphlet would inform people that they have Fourth Amendment rights based on the U.S. Constitution.

SENATOR MATHEWS:
Would the person have the right not to open the door?

CHAIR WASHINGTON:
Yes.

SENATOR WIENER:
There is a training program, but who gets trained?

MR. SCHNORBUS:
The training program is for the social workers. The pamphlet would contain the rights of the individual spelled out, but there is no obligation to explain those rights.

CHAIR WASHINGTON:

The pamphlet is not a warrant.

SENATOR MATHEWS:

The pamphlet could be mailed, not brought to the house.

MR. CAPELLO:

Our practice and policies are very clear. When a social worker knocks on a door, they advise the individual that a report has been received and the reason for the visit. If the individual does not want us in their house, we do not enter their house. Our option is, if the circumstances are exigent, we can go to the district attorney's office and request what equates to a search warrant. In the last 22 years, there has only been one occasion when such a request was made and the request was denied. We expect our social workers to be trained well enough to have an interaction and remove the threat that we are a law-enforcement agency. The social worker is there to have a dialog with the family.

SENATOR MATHEWS:

I am concerned about the protection of the children and the parents. There are many occasions when the complaint is from disgruntled spouses. The social worker's first opportunity is when they knock on the door with a pamphlet in their hand.

MR. CAPELLO:

Our first interaction is after we have gone into the field and attempted to contact the individual at their home to describe what the alleged issues are and give the individual an opportunity to respond to the allegations. There is an investigative process to look at the evidence, the intent of the reporting party and what is found on-site. The reality is that 60 to 75 percent of the allegations are not substantiated. This means the allegations were either inaccurate or there was not enough evidence to rise to a legal standard.

SENATOR HECK:

This would be an emotionally charged situation. A social worker could say that they are investigating a complaint of child abuse, hand the individual a pamphlet and then say, I want to come into your house but you are under no obligation to permit me. There needs to be some verbal dialog as to this individual's rights.

CHAIR WASHINGTON:

In current law, there is no pamphlet. This is just a pamphlet of the person's rights. The social worker will exercise prudence in going on the premises and the individual will be advised of the allegations against them. That is what the bill does. There are no Miranda Rights. We are not seeking a warrant or giving legal advice.

SENATOR HECK:

I concur. We are just trying to give information. Some verbal information would be helpful.

MR. SCHNORBUS:

If the training is done properly, it would cover doorstep interactions.

SENATOR WIENER:

Could there be a reference made to use understandable language in the pamphlet?

MS. BOSWORTH:

Yes. The training should sensitize the social worker to know that some of the people we work with do not read well. We will ensure that it occurs.

SENATOR WIENER:

This should be instituted in the development of the pamphlet as well.

MR. CAPELLO:

Unless there are exigent circumstances where a police officer is present because the report tells us that the child is in imminent danger, these are not the kinds of circumstances where we engage families. Our business is engaging families to help them recognize that we are there to help and assist them. The vast majority of families with whom we work have agreed to intervention.

SENATOR HORSFORD:

We have not followed parliamentary procedure because we let the discussion go to the public. As a member of the Committee, I have a question on the merits of the bill that needs to be answered before I can vote.

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CHAIR WASHINGTON:

There has been a motion made and it has been seconded. We were in discussion and I am closing the discussion.

SENATOR HORSFORD:

The discussion is not for the public; it is for the Committee.

CHAIR WASHINGTON:

It is up to the Chair to make that decision.

SENATOR HORSFORD:

I thought the rules were to follow parliamentary procedure.

CHAIR WASHINGTON:

We are closing the discussion and taking a vote.

THE MOTION CARRIED. (SENATORS HORSFORD AND MATHEWS
VOTED NO.)

* * * * *

SENATOR MATHEWS:

My no vote on S.B. 402 was not against children. My no vote was because I do not have a full understanding of how this whole procedure is going to work. I do understand when there is child neglect and the legal authorities, the police, are called, they ... investigate, but I have no clue what a social worker is going to be doing handing me a pamphlet at the door telling me they have a complaint. I am here to protect children, the family and most of all the parent who is scared to death that a social worker wants to come to see if there is food in the refrigerator, if the beds are made or if there are clean diapers in the house. I want to make sure that the parent is protected from those people who might be out to get her. It might be a divorce situation or a disgruntled neighbor.

CHAIR WASHINGTON:

We will open the hearing on Senate Joint Resolution (S.J.R.) 13.

SENATE JOINT RESOLUTION 13: Urges Congress to preserve Community Services Block Grant program as independent federal program. (BDR R-1396)

JOE E. CAIN (Community Services Agency Development Corporation):

The resolution lays out what our testimony would be in terms of what we are asking you to urge the federal government to do through passage of the resolution. The relatively small amount of monies our client gets through the Community Services Block Grant allows them to take those monies and leverage them and mushroom them into many more programs for lower-income people, education programs, affordable housing and other programs.

MICHELLE MCKEE (Administrator, Community Services Agency Development Corporation):

The Community Services Block Grant (CSBG) is seed monies that our agency has used for approximately 40 years to develop programs, partnerships, services and housing for low-income Nevadans. We realize there are efforts at the federal level to combine the CSBG with 17 other federal programs resulting in the loss of the purpose of the CSBG and the reduction in the funding levels. The purpose of this resolution is to indicate to Congress and show that our State recognizes the work done by CSBG, values that work and allow our agency to continue our work.

SENATOR HECK MOVED TO DO PASS S.J.R. 13.

SENATOR NOLAN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WASHINGTON:

There being no other issues before us today, the Senate Committee on Human Resources and Education will adjourn at 3:55 p.m.

RESPECTFULLY SUBMITTED:

Patricia Vardakis,
Committee Secretary

APPROVED BY:

Senator Maurice E. Washington, Chair

DATE: _____