

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

**Seventy-third Session  
May 4, 2005**

The Senate Committee on Human Resources and Education was called to order by Chair Maurice E. Washington at 2:05 p.m. on Wednesday, May 4, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, 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:**

Assemblywoman Barbara E. Buckley, Assembly District No. 8  
Assemblywoman Heidi S. Gansert, Assembly District No. 25  
Assemblywoman Chris Giunchigliani, Assembly District No. 9  
Assemblyman Bob McCleary, Assembly District No. 11

**STAFF MEMBERS PRESENT:**

Leslie K. Hamner, Committee Counsel  
Marshellah D. Lyons, Committee Policy Analyst  
Cynthia Cook, Committee Secretary

**OTHERS PRESENT:**

Frankie Sue Del Papa, Nevada Organ and Tissue Donor Taskforce  
Lawrence P. Matheis, Nevada State Medical Association

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Thomas J. Fronapfel, Administrator, Field Services Division, Department of Motor Vehicles  
Clay Thomas, Deputy Director, Department of Motor Vehicles  
Judge Gerald W. Hardcastle, Department D, Family Division, Eighth Judicial District  
Jone M. Bosworth, J.D., Administrator, Division of Child and Family Services, Department of Human Resources  
Diana Glomb-Rogan, Nevada Youth Care Providers  
Richard L. Siegel, American Civil Liberties Union of Nevada  
David K. Schumann, Independent American Party  
Frank Schnorbus  
Lucille Lusk, Nevada Concerned Citizens  
Larry D. Struve, Religious Alliance in Nevada  
Liliana Loftman, Attorney, Children's Attorney Project  
Steve Hiltz, Attorney, Children's Attorney Project  
Michael J. Capello, Washoe County  
Dan Musgrove, Clark County

CHAIR WASHINGTON:

We will open the meeting with a hearing on Assembly Bill (A.B.) 234.

**ASSEMBLY BILL 234 (1st Reprint)**: Revises various provisions relating to anatomical gifts. (BDR 40-860)

ASSEMBLYWOMAN HEIDI S. GANSERT (Assembly District No. 25):

This bill will transfer the Nevada Organ and Tissue Donor Taskforce from the Office of the Attorney General to the University of Nevada School of Medicine. The transfer has been agreed to by all the parties. The Taskforce was established in 2001 through legislation. The bill requires the Department of Motor Vehicles to provide information relating to anatomical gifts to each holder of a driver's license or identification card.

FRANKIE SUE DEL PAPA (Nevada Organ and Tissue Donor Taskforce):

There are over 80,000 people waiting for an organ or tissue donation in the United States. Assembly Bill 234 will raise public awareness and allow a greater institutional ability. The dean of the School of Medicine has been very supportive. The Taskforce consists of dedicated individuals who provide information and encouragement to people considering being an organ donor. The effective date of January 1, 2006, allows time for a smooth transition.

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CHAIR WASHINGTON:

Does this bill have any connection with Senate Bill (S.B.) 193 concerning anatomical gifts heard previously by the Committee?

**SENATE BILL 193 (1st Reprint)**: Makes various changes concerning Committee on Anatomical Dissection established by University and Community College System of Nevada and distribution and treatment of dead bodies. (BDR 40-51)

ASSEMBLYWOMAN GANSERT:

The bills are not related. The previous bill deals with the transport of cadavers.

LAWRENCE P. MATHEIS (Nevada State Medical Association):

The Nevada State Medical Association supports A.B. 234.

THOMAS J. FRONAPFEL (Administrator, Field Services Division, Department of Motor Vehicles):

The Department of Motor Vehicles (DMV) worked with the sponsor of the bill concerning the collection of information. The Department supports the bill.

SENATOR WIENER MOVED TO DO PASS A.B. 234.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS NOLAN AND MATHEWS WERE ABSENT FOR THE VOTE.)

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CHAIR WASHINGTON:

We will open the hearing on A.B. 84.

**ASSEMBLY BILL 84 (1st Reprint)**: Makes various changes concerning homeless persons. (BDR 40-810)

ASSEMBLYMAN BOB MCCLEARY (Assembly District No. 11):

A homeless person would be required to fill out an affidavit in order to receive an exemption from paying fees for the identifying information. The intent of the bill is to give a tool to those homeless persons who wish to enter the

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workforce. I do not have any illusions this will be widespread. I am hoping approximately 200 people each year will take advantage of A.B. 84.

CHAIR WASHINGTON:

I understand that the bill targets Nevada citizens. What documentation would be required?

ASSEMBLYMAN MCCLEARY:

I understand there are existing procedures in place. Perhaps, the representative from the DMV can explain them. Many homeless people have some outdated identification.

SENATOR WIENER:

In order to spread the word about this measure, will you be informing the homeless shelters?

ASSEMBLYMAN MCCLEARY:

Yes, and by word of mouth.

SENATOR CEGAVSKE:

The bill has a fiscal note that will have an effect on the State. Is there an estimate of the cost?

ASSEMBLYMAN MCCLEARY:

I am not an expert, but I estimate there will be approximately 200 people qualified and desiring to take advantage of this bill. There was no testimony in the Assembly hearings concerning cost.

CLAY THOMAS (Deputy Director, Department of Motor Vehicles):

The fiscal note is included, because there is a charge to obtain a driver's license and/or an identification card. This bill allows an individual to obtain either one. The charge of \$19 for a driver's license and \$14 for an identification card would be waived. The revenue loss to the State is not high because of the projected amount of persons who will utilize the measure. However, there is a cost to the DMV for the contractual amount charged by a vendor of \$2.25 for each photograph.

SENATOR CEGAVSKE:

What is the total of the estimated fiscal note?

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MR. THOMAS:

Based on the total number of homeless people who may apply for a card, the estimated loss of revenue for fiscal year 2006 is \$11,784, and for fiscal year 2007 the estimated loss of revenue is \$12,131.

SENATOR CEGAVSKE:

How were those figures calculated?

MR. THOMAS:

The Department of Motor Vehicle statistics show there are approximately two million people in Nevada who hold a driver's license and identification cards. Eighty percent have driver's licenses and twenty percent have identification cards. We took the number of homeless, divided it by the percentages and applied it to develop the figures.

CHAIR WASHINGTON:

You indicated that the DMV would be willing to absorb the cost of providing this identification.

MR. THOMAS:

That is correct. The exception remains for the cost of \$2.25 for the photograph.

CHAIR WASHINGTON:

Is there any way the DMV could absorb that cost?

MR. THOMAS:

The estimated cost for the photographs for fiscal year 2006 is \$1,908 and for fiscal year 2007 is \$1,964.

SENATOR WIENER:

I am hearing the presumption that all of the homeless people who could qualify were used in the estimated costs.

ASSEMBLYMAN MCCLEARY:

I had the same concern. This only applies to Nevada adult residents, and many of the homeless people are from other states.

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MR. THOMAS:

The DMV does not know the exact number of homeless individuals. We have tried to determine a best-case scenario using the entire assumed population.

SENATOR HORSFORD:

Is there some flexibility in the \$14.50 fee for a duplicate driver's license? Is the actual cost to the DMV \$14.50?

MR. THOMAS:

The actual hard-dollar cost is \$14.

SENATOR HORSFORD:

Based upon the intent of the bill, the only cost that needs to be addressed is the \$2.25 for a photograph.

CHAIR WASHINGTON:

The cards and licenses must be renewed every four years. The projected costs are approximately \$2,000 for each fiscal year. Perhaps, the bill could be amended to say the exemption of fees to the homeless person would apply for the first four years, and upon renewal the fees would be paid by the individual, along with the \$2.25 charge for the photograph.

ASSEMBLYMAN MCCLEARY:

I respect that, if it is the wish of the Committee.

MR. THOMAS:

The DMV will comply with the wish of the Committee. If we waive the cost of the fee for the photograph, we would ask for an appropriation to cover those costs.

SENATOR WIENER:

The proposal would be to waive all costs and fees for the first four years, and upon renewal the full amount plus the \$2.25 photograph fee would be payable. Is that correct?

SENATOR HORSFORD:

Is the vendor for the photography the same one that was responsible for the error in relation to 8,000 driver's licenses in Clark County?

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MR. THOMAS:  
That is correct.

SENATOR HORSFORD:  
Perhaps, you could approach the vendor and request they waive their fee for this program.

MR. THOMAS:  
The DMV can discuss that idea with the vendor.

SENATOR CEGAVSKE:  
If we are trying to cover the \$2.25, perhaps there could be a donation fund set up within the DMV. I am curious about the genesis of this measure. Were you approached by organizations?

ASSEMBLYMAN MCCLEARY:  
I live in an area in Las Vegas that borders on a homeless area. For years, I have thought somebody ought to do something for these people. My wife suggested that "somebody" should be me. I believe this measure is a first step.

SENATOR WIENER:  
There is a standard provision in statute about receiving gifts, grants and donations.

MR. THOMAS:  
There is a precedent already set. The DMV has established a fund for donations to the organ-donor program.

CHAIR WASHINGTON:  
Would it be difficult to identify the homeless individuals when they come to the DMV for renewal of their license or identification card?

MR. THOMAS:  
I am quite sure the information-technology personnel could enter a flag into the system.

CHAIR WASHINGTON:  
What is the affidavit process?

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ASSEMBLYMAN MCCLEARY:

The best idea we were able to come up with was the signing of an affidavit at the DMV stating the applicant was homeless.

MR. THOMAS:

The DMV is willing to accept an affidavit in order to waive the initial fee. It is not necessary for the affidavit to be notarized.

ASSEMBLYMAN MCCLEARY:

Perhaps, this could be a one-time boost for a homeless individual who hopes to acquire a form of identification.

SENATOR HORSFORD:

The Nevada JobConnect program works with individuals who require training and identification cards. The program serves a number of homeless individuals. Concerning a homeless person paying for the photograph, there is a benefit for an individual to understand nothing is free. However, I would like the vendor to be approached about waiving the fee.

MR. THOMAS:

We do not oppose this bill. We appreciate the intent behind it.

CHAIR WASHINGTON:

We will offer an amendment stating this measure is for one time only. Upon renewal, there will be a payment due for fees from the initial application of \$2.25. There will be a donation account within the DMV, and the DMV will be encouraged to work with the vendor to waive their fee. I would like to see the DMV report on the bill submitted to the 74th Legislature.

ASSEMBLYMAN MCCLEARY:

If the vendor is willing to work with the DMV to waive their fee, will the DMV have the discretion to waive it for the applicants? That is acceptable to me.

SENATOR HORSFORD MOVED TO AMEND AND DO PASS A.B. 84.

SENATOR CEGAVSKE SECONDED THE MOTION.



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THE MOTION CARRIED. (SENATORS NOLAN AND MATHEWS WERE  
ABSENT FOR THE VOTE.)

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CHAIR WASHINGTON:  
We will open the hearing on A.B. 42.

ASSEMBLY BILL 42 (1st Reprint): Makes various changes concerning protection  
of children from abuse and neglect. (BDR 38-670)

ASSEMBLYWOMAN BARBARA E. BUCKLEY (Assembly District No. 8):  
During the interim, I was the Vice Chair on the Legislative Committee on  
Children, Youth and Families. The Legislative Committee was created to oversee  
the work done by the Legislature in improving our child-welfare system. There  
was severe abuse in the foster-care system before legislation was passed to  
eliminate the bifurcated system that existed in Washoe and Clark Counties.  
Assembly Bill 42 was recommended by the Legislative Committee. The measure  
will provide that a person or governmental entity has a legally enforceable  
obligation to provide care to a child. An example would be if the State is  
responsible to provide mental-health services to a child, a representative from  
the State is to be in court. This was recommended by District Judge Gerald W.  
Hardcastle. The second portion of the bill concerns placing siblings together in a  
foster home whenever possible. This bill strengthens the law and provides that  
it must be presumed to be in the best interest of the child to be placed with  
siblings.

CHAIR WASHINGTON:  
Does the statement on page 2, line 3 include a foster parent or any legal  
guardian who has custody of the child?

ASSEMBLYWOMAN BUCKLEY:  
Currently, in the foster care system, if the rights of the natural parents have not  
been terminated, they appear at every court hearing and are a part of the  
proceeding. This would encourage a joining of the parties.

CHAIR WASHINGTON:  
My concern is that a foster parent would be subject to these proceedings. It is  
difficult to recruit foster parents, and this may be looked at as an additional  
obstacle.

ASSEMBLYWOMAN BUCKLEY:

Most foster parents attend court hearings. The judge is required to notify the foster parents and allow them an opportunity to be heard. I have not seen a case where the foster parent does not comply with a service. If the court orders it and the Division of Child and Family Services (DCFS) agrees, then the foster parent has an obligation under their contract.

CHAIR WASHINGTON:

A potential foster parent may perceive this as an obstacle.

JUDGE GERALD W. HARDCASTLE (Department D, Family Division, Eighth Judicial District):

I do not see this as a threat to foster parents but, as a supportive measure. They are the people who actually care for the children, and they want accountability to help them. The foster parents are often disappointed by their own foster-care agency. This bill is important in those cases where agencies are not doing their job. They are often not supporting the foster parent in getting the help these children need. Concerning the person or governmental entity, I do not know if that language will be a barrier when it comes to dealing with foster-care agencies themselves. I think this bill really deals with areas of mental health and encouraging foster-care agencies to accept their responsibilities.

CHAIR WASHINGTON:

The intent of section 1 of the bill is not to go after the foster parents. The intent is to assure the agencies do as they are prescribed.

DISTRICT JUDGE HARDCASTLE:

That is correct. The foster parents deal with the children every day, and we need to support them. We do that by holding others accountable.

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

This bill would affect the Clark County Department of Family Services. There might be a perception among foster parents that they would be enjoined. That may be an unintended consequence.

SENATOR HORSFORD:

Foster parents have agreed to be responsible for a child. Why would we not want them to be involved?

Ms. Bosworth:

Foster parents and other persons involved with children should be heard during court hearings. Again, the perception might be that foster parents and other providers of care would be required to spend a significant amount of time in court. They might decide to not provide that care.

ASSEMBLYWOMAN BUCKLEY:

The problem in the foster-care system is not the foster parents. The problem is the bureaucracy.

CHAIR WASHINGTON:

I am in favor of this bill. I would like to see modifying language so the foster parents do not perceive that they would be spending time in court dealing with the bureaucracies.

ASSEMBLYWOMAN BUCKLEY:

Many businesses provide foster care. We do not want to lose focus of the fact that A.B. 42 is for the good of the children.

DISTRICT JUDGE HARDCASTLE:

When there are problems presented to the court, the final analysis is doing what is best for the child. It is important the court has all of the parties present in these very complicated cases.

CHAIR WASHINGTON:

We will close the hearing at this time and open the hearing on A.B. 43.

**ASSEMBLY BILL 43 (1st Reprint)**: Establishes certain rights for children who are placed in foster homes. (BDR 38-672)

ASSEMBLYWOMAN BUCKLEY:

This bill is another recommendation on behalf of the Legislative Committee on Children, Youth and Families. In 1973, the National Foster Parent Association adopted a bill of rights for children in foster care. States and organizations issue booklets listing the rights of children in foster care. Assembly Bill 43 contains a bill of rights for the foster children in Nevada. The bill provides for contact with family members, fair and equal access to services and the right to confidentially contact an agency which provides child-welfare services concerning their care.

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SENATOR CEGAVSKE:

Is this the first bill of rights for foster children?

ASSEMBLYWOMAN BUCKLEY:

Currently, in the *Nevada Administrative Code* (NAC) there are provisions for the protection of foster children. A pamphlet has been prepared to inform children what to expect when they enter foster care.

SENATOR CEGAVSKE:

Is it your vision to have a type of a booklet describing the contents of this bill?

ASSEMBLYWOMAN BUCKLEY:

It could be used as an additional tool, written to be understood by a nine-year-old. I will provide to the Committee the information that was prepared for me showing where the current provisions appear in the NAC.

SENATOR CEGAVSKE:

I sense there is a problem in the foster-care system, based on the two bills before us today.

ASSEMBLYWOMAN BUCKLEY:

There is a lot that is going right in the system. Caseloads have been lowered, and there is a program for children with severe emotional disturbances. There are challenges in the mental-health system.

SENATOR HORSFORD:

Could you define corporal punishment?

ASSEMBLYWOMAN BUCKLEY:

Corporal punishment is defined as the intentional infliction of physical pain. Currently, the foster-care system has a more expansive list of what is considered unacceptable discipline. The list includes not subjecting children to verbal abuse or the threat or use of spanking. Many foster children are from violent home situations. The thrust of the training for foster parents is to urge time-outs and other progressive forms of discipline. The children need to have boundaries.

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SENATOR HORSFORD:

That is currently in the NAC. Was there discussion in the Assembly Committee on Health and Human Services?

ASSEMBLYWOMAN BUCKLEY:

There was not very much discussion on that issue. There was the sense that corporal punishment was covered by existing code and policy.

CHAIR WASHINGTON:

Who is responsible for taking foster children to religious services?

ASSEMBLYWOMAN BUCKLEY:

The foster parent is responsible. The screening for that is done during the placement process.

DISTRICT JUDGE HARDCASTLE:

Senator Cegavske asked if there was a problem in the system. I do not think that is the case. We are trying to positively define the experience for foster children, so they know the expectations. The help of the Legislature is appreciated. It is one thing when I suggest the children should be kept together. It is another thing when I can point to a statute that says this is in law. We are not operating out of weakness; we are operating out of strength for the first time since I have been involved.

CHAIR WASHINGTON:

What would prevent future legislators from changing this to a bill of rights for biological children?

DISTRICT JUDGE HARDCASTLE:

There is a basic premise in this country that we do not tell parents what to do. What we are talking about here is the role of the State as the parent. This is setting standard treatment for children who are in the care of government. It is a separate issue from dealing with the rights of private parents. We allow parents to exercise some degree of corporal punishment, because there is a presumption of love. We set a different standard for the State; it is a standard that is based upon a greater degree of caution and responsibility. These children are entrusted, under the law, to the State of Nevada. You are the leaders of the State of Nevada, and you have the right to determine whether corporal

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punishment is something you will entrust others to exercise against the children entrusted to your care.

SENATOR MATHEWS:

This becomes crucial when a child is placed in a foster home with different cultural values.

ASSEMBLYWOMAN BUCKLEY:

This does not change existing law. Corporal punishment is not allowed. When a child crosses the line, a parent knows to what they will respond. A foster child may have been abused in the past, and that is why the State does not allow corporal punishment.

CHAIR WASHINGTON:

There may be different views and aspects. If an individual becomes a foster parent, all of the rules and regulations must be taken into consideration. Is there an issue when a relative takes custody of a child?

ASSEMBLYWOMAN BUCKLEY:

The bill would not apply for relative placements.

CHAIR WASHINGTON:

We will hear additional testimony on A.B. 42 and A.B. 43.

DIANA GLOMB-ROGAN (Nevada Youth Care Providers):

Nevada Youth Care Providers offers foster care for children who have a mental-health diagnosis or are severely emotionally disturbed. We are in support of both bills. There are concerns with A.B. 42. Page 2, lines 9 and 10, state the court may issue an order to join the person or governmental entity as a party in any proceeding. If there is an issue where a child can no longer remain in a foster home, the concern is that they may be forced to take a child they do not feel is appropriate. Also, on page 5, line 22, who may be held in contempt of court if the visitation does not take place?

LESLIE K. HAMNER (Committee Counsel):

The person who has the legal duty to bring the child for visitation, usually the foster parent, could be held in contempt.

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MS. GLOMB-ROGAN:

Often, foster parents will provide the transportation for a visit. Sometimes, it is the social worker. Sometimes, there are logistic problems. We are trying to recruit foster parents, not scare them with a threat.

CHAIR WASHINGTON:

I agree with you.

RICHARD L. SIEGEL (American Civil Liberties Union of Nevada):

I am here to speak on A.B. 43. One of the issues is the fear by foster parents of litigation. I know of no such actions against foster parents. I do know of litigation against state and county agencies. It is not something the American Civil Liberties Union (ACLU) would consider. We want to hold the state agencies accountable, and I believe this bill serves that purpose. Earlier testimony indicated these are more standards than rights. Foster children do not have the same protection under the Fourteenth Amendment of the United States Constitution as others.

CHAIR WASHINGTON:

If the wording on page 2, line 3 were to say "Every child placed in a foster home has an expectation of certain standards" would you have a problem?

MR. SIEGEL:

I would hope the word "right" is not changed. It gives the bill strength and power, but they will not be litigated as rights.

MS. HAMNER:

Section 1 of the bill would have to be rewritten in order to change the wording.

SENATOR MATHEWS:

There are other areas where we use the word "rights." A patient bill of rights has the same force to identify the expectation of the individual.

MR. SIEGEL:

A patient bill of rights is required in mental-health facilities and hospitals. They have a certain power. For the most part, they are hard to litigate. I hope we can call them rights with the understanding that these are different from a right to counsel in a criminal case.

CHAIR WASHINGTON:

The difference is that with a patient bill of rights an individual has a right to litigate if those rights are violated.

MR. SIEGEL:

The cases that have been litigated have been very severe physical abuse and deaths in the care of county and state agencies. Legal services do not have the resources to go beyond those types of violations.

CHAIR WASHINGTON:

If a child asserts his religious rights were violated, there could be litigation against the foster parent.

MR. SIEGEL:

There may be a legitimate right for a child to go to church. This is an area where if there were litigation, many judges would regard it as frivolous.

DAVID K. SCHUMANN (Independent American Party):

The Nevada Eagle Forum and the Independent American Party oppose A.B. 43. Every child placed in a foster home is entitled to certain things. I believe that word should be used in the bill. Corporal punishment is necessary in some circumstances. How can a foster father punish his biological child with a spanking and not be allowed to do so with his foster child? The job of a foster parent is to deter bad behavior. The shortage of foster parents makes it difficult for social workers to move children from a foster home that is not working. This bill gives rights to foster children that non-foster children do not have.

FRANK SCHNORBUS:

I am here as a foster parent and a Court Appointed Special Advocate (CASA) volunteer. I do not feel A.B. 43 is a good bill. If this bill passes, it is going to have a chilling effect on the recruitment of foster homes. Foster children come out of troubled backgrounds, and in some cases corporal punishment is necessary. This is addressed in NAC; why are we putting it into law as a right. The bill mentions "to be treated with respect." Sometimes, when administering discipline, respect begets respect. Page 2, line 28 states a foster child may not be locked in any room, building or premises of a foster home. We do not lock our children in rooms; however, we do lock our house at night.



SENATOR NOLAN:

I am surprised there are not more foster parents here today.

MS. BOSWORTH:

There was a lot of concern when this bill was introduced. Foster-parent groups and others worked with Assemblywoman Buckley's office. The three child-welfare agencies had an opportunity to review the bill before it was put forward for a final vote in the Assembly. The child-welfare agencies are in support of this bill.

SENATOR NOLAN:

We do not want to do something that is going to have a chilling effect on the ability to recruit foster parents. I have heard compelling reasons why some of these provisions might be detrimental to the current foster system.

MS. BOSWORTH:

There was a great deal of concern during the Assembly hearings. They were worked through, and from the child-welfare agencies perspective, we do not perceive this bill as having a chilling effect. We think everything in the bill is in the NAC.

LUCILLE LUSK (Nevada Concerned Citizens):

Nevada Concerned Citizens are in strong support of A.B. 42. An area of concern is on page 5. Perhaps line 21 could say, "if a person willfully and persistently fails to comply with an order." If a pattern of refusal to comply with the visitation with siblings occurred, then punishment might be possible. Philosophically, I suspect placement with siblings is absolutely desirable. In addressing A.B. 43, there were many hours of work in the Assembly. During this process, we learned that our different backgrounds come into play. My experience with foster parents has been that they are doing it for their love of children. Some concern was raised about possible litigation based upon rights. Under existing law, the remedy is the removal of the foster child from the home. You could consider limiting any action, so there is not the possibility of litigation. If there is a foster home that violates these issues, we would want the license removed. Any litigation should be directed to the State, not to the foster parent.

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CHAIR WASHINGTON:

As we look at A.B. 43, would the words "have the expectations of" instead of "rights" be appropriate?

Ms. LUSK:

That is acceptable. I am not fond of the phrase "the rights." I understand it has a powerful ring, but I have some concerns about the implications.

SENATOR WIENER:

I can see the evolution of professional foster care. The terminology being discussed will then become more important.

LARRY D. STRUVE (Religious Alliance in Nevada):

The board of the Religious Alliance In Nevada (RAIN) strongly supports A.B. 43. We became involved many years ago when there were a number of problems in Clark and Washoe counties. The Legislature has been a part of the solution. This bill attempts to put a capstone on this multiyear effort. We all want to achieve justice for the children who need to be under protective services of the State or the county. I hope the Committee does not get lost in the minutiae of terminology. The way to approach this problem is to do justice, love, kindness and walk humbly with our God. When those who are the most vulnerable suffer, the whole community suffers.

SENATOR WIENER:

When the word justice is used in discussing these children, there is the juvenile-justice component as well. Our concern is to take steps to heal wounded children so they do not carry those wounds into adulthood.

Ms. GLOMB-ROGAN:

There was a question raised if foster parents would be in favor of a bill of rights for the foster child. My organization represents well over 100 foster parents and they support A.B. 43.

CHAIR WASHINGTON:

We will close the hearings on A.B. 42 and A.B. 43. We will open the hearing on A.B. 369.

ASSEMBLY BILL 369 (1st Reprint): Establishes certain procedures and requirements for admission of children who are in custody of agencies which provide child welfare services to mental health facilities. (BDR 38-717)

LILIANA LOFTMAN (Attorney, Children's Attorney Project):  
I am an attorney for the Children's Attorney Project (CAP). I will read testimony that addresses the rights of children in foster care ([Exhibit C](#)).

ASSEMBLYWOMAN CHRIS GIUNCHIGLIANI (Assembly District No. 9):  
This bill was introduced to rectify a problem in the foster-care system. Adults placed in locked treatment facilities are allowed due process. This bill is attempting to assure foster children should not be deprived of their liberty. A key component of A.B. 369 is that young people will have an opportunity for an objection. A judge can make a final determination based upon the screening that takes place. As a special education teacher, my students must be placed in the least-restrictive environment. There should not be any difference for children in foster care.

CHAIR WASHINGTON:  
Page 3, line 39 states that the detention of a child should not exceed additional periods of 60 days. What happens when that period is over?

ASSEMBLYWOMAN GIUNCHIGLIANI:  
If that were to happen, at the end of the 60-day period there is a review. The case manager should be interactive and preparing to transition the child.

STEVE HILTZ (Attorney, Children's Attorney Project):  
Assemblywoman Giunchigliani is accurate.

CHAIR WASHINGTON:  
The bill puts pressure on the agencies to deal with involuntary treatment. Are the agencies prepared to comply with the provisions?

ASSEMBLYWOMAN GIUNCHIGLIANI:  
The agencies were involved in negotiations. We accepted several of the amendments that the agencies offered. They will be more accountable, because part of the pattern of behavior has been to allow the children to be locked up.

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CHAIR WASHINGTON:

There are definitions in the bill of facilities and treatment. Are these for adults or children?

MS. HAMNER:

The *Nevada Revised Statute* (NRS) 433 deals with both adults and children.

SENATOR HORSFORD:

If children are being contained in facilities for long periods of time, will this bill help with the issue of the lack of mental-health beds?

ASSEMBLYWOMAN GIUNCHIGLIANI:

There are several measures this Legislative Session dealing with the mental-health issue. The Legislative Committee on Children, Youth and Families was looking at helping foster-care parents receive better support. We are slowly closing the gap of lack of placement being a cause for not placing people in the proper place.

SENATOR HORSFORD:

Additionally, if we can move towards a less restrictive environment for these children, it will open up much needed mental-health beds.

MR. HILTZ:

I would like to stress the main problem in the primary quality of these facilities we are discussing is that they are locked. Due process rights do apply to minors. These children are being locked up without any rights at all, based on the recommendations made by caseworkers.

MS. BOSWORTH:

The DCFS agrees that children do need due process rights. We do not want to have children in locked facilities in the State of Nevada or in other states. A child cannot be placed in a locked facility on the recommendation of a social worker. It must go through a team process with oversight by a psychiatrist or psychologist. Before a child goes to the first hearing, they should be provided with an attorney. There is a lack of consensus about the kinds of professionals we want to mandate the evaluation. In rural Nevada, often a pediatrician performs the first evaluation. I believe these concerns can be addressed.

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CHAIR WASHINGTON:

The fiscal note mentions a \$500 cost.

Ms. BOSWORTH:

The \$500 is the cost of a second evaluation.

CHAIR WASHINGTON:

The total of the fiscal note is approximately \$142,000 for fiscal year 2006 and \$285,000 for fiscal year 2007.

Ms. BOSWORTH:

When we originally tried to project the fiscal impact, we looked at placements in locked facilities versus admissions. One child might be admitted several times. The original fiscal note has been corrected.

MICHAEL J. CAPELLO (Washoe County):

I can describe the fiscal note from Washoe County. We identified 58 admissions. If those cases required a second opinion, the cost would be \$29,000. We also estimated the cost for court appearances and attorneys. In Washoe County, we are estimating a total cost of \$399,000 for attorneys, the cost for the evaluations and anticipating additional personnel to prepare for the hearings. We have submitted our estimate to the DCFS.

SENATOR HORSFORD:

Do you ever prepare a fiscal note to indicate the savings that might occur with the implementation of a program such as this?

Ms. BOSWORTH:

No, savings are not reflected in the fiscal note. I think it is an important point. Children are not receiving proper representation because of the shortage of attorneys. If we can reunite children with their families, there should be a cost savings, and that will be one of the consequences of getting this bill right.

SENATOR HORSFORD:

Do you have written proposals addressing your concerns?

Ms. BOSWORTH:

Yes, the three child-welfare agencies met. They have produced a document that is a concept for an amendment to outline the shared accountability of Nevadans

to assure that the rights of children are protected. We have been working with the CAP attorneys.

ASSEMBLYWOMAN GIUNCHIGLIANI:

The CAP attorneys and the three child-welfare agencies have spent hours trying to negotiate nebulous concerns. These children must go to court in any case. They are not involving the parents in many instances.

MR. CAPELLO:

In Washoe County, out of 1,000 children for which we have custody, there are 10 in locked mental-health facilities. In order to establish the fiscal note, we looked back at a full year. Over the course of that year, there were 58 admissions. We evaluated the costs of the 60- and 90-day reviews.

MS. BOSWORTH:

In the rural counties, the DCFS had 26 admissions out of a population of approximately 500. Some of the admissions were readmissions. Data from Clark County indicates there were 77 admissions out of a foster-care population of approximately 1,900.

MR. CAPELLO:

We are not opposed to setting up a due process. We have worked on the bill, and there are some areas that will need some decisions in order to reach a consensus.

SENATOR HORSFORD:

I would like to see the concepts that have been put forward by the three child-welfare agencies.

ASSEMBLYWOMAN GIUNCHIGLIANI:

We have attempted to work out all concerns. This is still about the best interests of the children, not the best interests of the bureaucracies.

MR. SIEGEL:

The ACLU strongly supports what the sponsors of A.B. 369 are trying to accomplish. I believe the bill can be made better. We must not let this bill die. All parties have expressed support for this bill.

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CHAIR WASHINGTON:

I would like to ask all of the concerned parties to meet. We will consider A.B. 369 in the work session scheduled for April 18, 2005. Please present your suggested amendments in writing.

DAN MUSGROVE (Clark County):

Clark County was involved with trying to work out the common interests for A.B. 369. We are in complete support of the direction of the bill. We have heard from attorneys, advocates and agency representatives. I question why there has not been testimony from mental-health professionals about what is in the best interest of the children.

CHAIR WASHINGTON:

We will close the hearing on A.B. 369. There being no other issues before us today, this meeting of the Senate Committee on Human Resources and Education will now adjourn at 5:35 p.m.

RESPECTFULLY SUBMITTED:

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Cynthia Cook,  
Committee Secretary

APPROVED BY:

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Senator Maurice E. Washington, Chair

DATE: \_\_\_\_\_