

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

**Seventy-fourth Session
May 2, 2007**

The Senate Committee on Human Resources and Education was called to order by Chair Maurice E. Washington at 1:30 p.m. on Wednesday, May 2, 2007, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 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 in 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 Joseph J. Heck
Senator Valerie Wiener
Senator Steven A. Horsford
Senator Joyce Woodhouse

GUEST LEGISLATORS PRESENT:

Assemblywoman Barbara E. Buckley, Assembly District No. 8
Assemblyman John Ocegura, Assembly District No.16

STAFF MEMBERS PRESENT:

Marsheilah D. Lyons, Committee Policy Analyst
Joe McCoy, Committee Policy Analyst
Sara Partida, Committee Counsel
Jeanine Wittenberg, Committee Secretary

OTHERS PRESENT:

Keith Munro, Chief of Staff, Office of the Attorney General
Eddie Bonine, M.Ed., CAA, Executive Director, Nevada Interscholastic Activities Association
Michael J. Willden, Director, Department of Health and Human Services

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Fernando Serrano, Administrator, Division of Child and Family Services,
Department of Health and Human Services
Mike Capello, Director, Department of Social Services, Washoe County
Thomas D. Morton, Director, Department of Family Services, Clark County
Barry Smith, Executive Director, Nevada Press Association, Incorporated
Keith Rheault, Ph.D., Superintendent of Public Instruction, Department of
Education
James Jackson, Nevada State Education Association
Julianna Ormsby, Nevada Women's Lobby
Louise Helton
Donna Hoffman-Anspach, Nevadans for Quality Education

CHAIR WASHINGTON:

I will now open the hearing on Assembly Bill (A.B.) 148. Mr. Munro,
I understand you have worked out the amendments with the Retail Association
of Nevada.

ASSEMBLY BILL 148 (1st Reprint): Enacts provisions governing the sale of
products containing materials that are used in the manufacture of
methamphetamine and other controlled substances. (BDR 40-512)

KEITH MUNRO (Chief of Staff, Office of the Attorney General):

I have reviewed the mock-up amendment (Exhibit C) and find that all of the
corrections requested are included.

CHAIR WASHINGTON:

There being no further questions, I will entertain a motion to amend and do
pass.

SENATOR WIENER MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 148.

SENATOR HECK SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WASHINGTON:

I will now open the hearing on A.B. 261. We are waiting for Assemblywoman Buckley so I will leave the hearing open on this bill. I will now open the hearing on A.B. 313. We are waiting for Assemblyman Oceguela so I will also leave the hearing open on this bill. I will now open the hearing on A.B. 391.

ASSEMBLY BILL 261 (1st Reprint): Makes various changes to provisions relating to child abuse and neglect. (BDR 38-870)

ASSEMBLY BILL 313 (1st Reprint): Revises provisions governing the tracking, monitoring and revocation of teacher licenses for criminal behavior. (BDR 34-731)

ASSEMBLY BILL 391 (1st Reprint): Revises provisions governing the decisions of the Nevada Interscholastic Activities Association and certain of its designees. (BDR 34-79)

EDDIE BONINE M.Ed., CAA (Executive Director, Nevada Interscholastic Activities Association):

I am in favor of A.B. 391.

SENATOR CEGAVSKE:

What does it do?

MR. BONINE:

It would allow the decisions made by the executor director or designee, in our case a level II hearing officer, be final and binding pending a judicial review and prevents a stay or restraining order during that time.

SENATOR HECK:

Could you provide some background on why this bill is necessary?

MR. BONINE:

Over the course of the history of interscholastic competition there have been rulings made by the executive director or hearing officer that the schools have supported but individual student athletes have disputed through retained personal legal counsel. The legal counsel has taken the issue to court, the judge has issued restraining orders and those individuals have been allowed to

participate under stress, if you will. We never really can get a final judgment out of the court. The restraining order or complaint is dropped and we spend thousands of dollars of member schools' money in defending the rules and regulations defined in the *Nevada Revised Statute* (NRS) 386.440.

SENATOR HECK:

Is this in no way violating someone's due process? Is it just saying that once we make a decision the decision stands until it is overturned by the court?

MR. BONINE:
Correct.

SENATOR CEGAVSKE:

I am concerned about this because I am aware of some cases of student athletes who have felt they were unfairly ruled out of some type of sport activity. I want them to continue to have an avenue. Do you know what inspired Assemblyman Munford to propose this bill? Did he do this on his own, or did you ask for it?

MR. BONINE:

I am not speaking for Assemblyman Munford. He submitted the bill and then contacted our office. Apparently there was a history of this while he was still coaching and teaching dating back many years ago. Sometimes this stems from alleged recruiting violations, transfer rule violations and then participation, whether it is an academic violation or any other form of eligibility. The majority are for ineligibility. Most recently, there was a track athlete in southern Nevada who participated in more than the number of events allowed by the National Federation of State High School Associations and the Nevada Interscholastic Activities Association (NIAA). They played ignorant to the rule, a judge stepped in, the individual participated and they won the championship and then the case was dropped. Those individuals who did abide by our rules and regulations were not allowed to participate. The person who had the stay put on us ended up being a State champion. There is a history of a lot of money being spent on this. I think you are familiar with a recent case in southern Nevada wherein we spent a lot of money.

SENATOR CEGAVSKE:

It is all well and good that we have the NIAA, but there are times when organizations or groups such as yours might be wrong. I am concerned about a

case where a student should have been able to play, was not allowed to play, and everything happened after the fact because there is no speedy court system and they would have been denied the right to participate.

MR. BONINE:

We take those cases to a level II hearing officer so if there is a decision made by me and there is an appeal, a nonpartisan person is making the decision. Once that decision is made, that is where this particular legislation would come into play.

SENATOR CEGAVSKE:

Are they a mediator?

MR. BONINE:

Yes.

SENATOR CEGAVSKE:

Who pays the mediator?

MR. BONINE:

We all pay the fees. A fee is submitted to our office for the appeal, and we end up paying any fees incurred.

SENATOR CEGAVSKE:

Again, what I am concerned about is the time it takes to go through the process of the NIAA, the hearing officer and the court. Then the final decision is in favor of the athlete and they could have played but missed out.

MR. BONINE:

The opposite side of the issue is if they participated and it was ruled they should not have, then we would have to go back and forfeit the event.

SENATOR CEGAVSKE:

All you are doing is just taking care of that side of the issue. You are not taking care of the student athlete's side with good faith and that is where I have concern.

SENATOR HORSFORD:

I am trying to get a feel for the due process. In the event there is an alleged violation to the regulations or rules the NIAA is required to administer, you issue an opinion or prohibit an athlete from participating. If someone disagrees with your ruling, they are able to have this hearing officer hear the case. Is that how it works?

MR. BONINE:

Yes.

SENATOR HORSFORD:

What transpires with the student athlete during the time you make the initial ruling and the hearing is conducted?

MR. BONINE:

If they are in season, they would not be allowed to participate. If they are out of season, a transfer appeal may come through the office in a down season for the athlete and there is a time frame there to work within. When we are in season, we move as quickly as possible on the decision-making process.

These arise far and few between, but when they do come up they become high profile and emotional very quickly.

SENATOR HORSFORD:

That is current law. In this bill, if a hearing officer disagrees with the NIAA then would the NIAA ruling still stand unless it is overturned by a court even though the hearing officer disagrees?

MR. BONINE:

No. If the hearing officer disagrees with the decision I have made, we go with that decision and the athlete, if they are in season, would continue to participate. If the hearing officer upholds the decision I made as the executive director, that is the point when the language of this bill would go into effect. There would be a stay not allowable until it has a full judicial review.

SENATOR HORSFORD:

During that period, the ruling of the hearing officer to permit the student athlete to participate would be granted.

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MR. BONINE:

It would be immediate and we would not exercise this language.

SENATOR HECK:

This law would say that while you are waiting for it to go to court you still cannot play.

MR. BONINE:

Yes.

SENATOR HORSFORD:

Committee Counsel, what is the precedence for this? It says, " ... NRS 386.430 must not be stayed by a court pending the court's final judgment on the matter."

SARA PARTIDA (Committee Counsel):

Yes, that language is frequently used for professional licensing boards and things of that nature.

CHAIR WASHINGTON:

We will take action on this bill during one of our work sessions. I will now close the hearing on A.B. 391 and reopen the hearing on A.B. 261.

ASSEMBLY BILL 261 (1st Reprint): Makes various changes to provisions relating to child abuse and neglect. (BDR 38-870)

ASSEMBLYWOMAN BARBARA E. BUCKLEY (Assembly District No. 8):

This bill deals with the issue of release of records where there has been a child fatality within the child welfare system. I think all of the Committee members are aware of the issues that have arisen over the years with regard to child fatalities. From 2001 to 2004, 11 Clark County children and out-of-home placements died. Three died in hospitals, five died in foster homes and three died in the homes of relatives. The cause of death in each case has not been made public. A State analysis released in December 2005 showed the number of Clark County child fatalities caused by abuse or neglect from 2001 to 2004 was more than three times higher than originally reported. When some of the interim committees were given this information, we tried to receive information so we could learn from them to prevent another child death. It was impossible to get any of these records. Concerns were cited to us that the

child's privacy was at issue. That was a little hard to believe since the child was deceased. We were told that federal law prohibited the release of information yet we have federal officials urging us to change statutes to make this information available to the public. Some of the child welfare agencies said they wanted to release it but legal counsel would not let them. Assembly Bill 261 is the result of efforts looking to create a solution for this issue. I urge passage of this bill.

Section 2 is to help locate a missing child and makes it clear that the child welfare agency may release name, age, physical description and a photograph.

Section 3 requires that data or information concerning reports and investigations of child fatality must be made available to any member of the public within 48 hours of any such fatality or within 5 business days of any such near fatality. It makes it very clear what information can be released and what information should not be disclosed.

Section 3, subsection 3, provides the Division of Child and Family Services (DCFS), Department of Health and Human Services, adopt regulations to carry this out.

Section 11 creates a backup mechanism and allows the Legislative Auditor to be provided the records and be able to be an objective person if there is a dispute to release the information. Right now, to get the records it must go to the courts.

I have provided the Committee with a letter from Joan E. Ohl, Commissioner, Administration for Children and Families, U.S. Department of Health and Human Services, who indicated that the bill does comply with federal law and will not jeopardize funding to Nevada ([Exhibit D](#)).

In summary, I think when things go wrong government's first instinct is to not provide information. In my opinion, that is the wrong way. If you are going to restore trust and accountability, people need to know what happened and what steps are in place to make sure something does not happen again. Government in secret does not inspire confidence and trust. If ever there were an instance where government should look to, and learn from its actions, this is it. If a child has died in our care and we are not taking steps to prevent that from happening

again, then we are as guilty as the person who allowed the abuse to happen in the first place.

CHAIR WASHINGTON:

I met with Ms. Ohl a few times regarding the issue Clark County is facing with Child Haven. Your bill is an attempt to address that situation and issues to make sure records are public and that there is some state oversight concerning those facilities and federal funding is not lost.

ASSEMBLYWOMAN BUCKLEY:

That is correct. There are several other bills that will be coming before you this session having to do with accountability measures. We dealt with them this morning in the budget hearings with regard to state oversight to ensure child fatalities are being reviewed properly and our corrective-action plan is being implemented properly. Transparency was one of the issues the federal government mentioned. We cannot begin to rebuild the system unless it is transparent.

CHAIR WASHINGTON:

Is this bill applicable throughout the State or have you just isolated it to Clark County?

ASSEMBLYWOMAN BUCKLEY:

It is applicable to the entire State.

CHAIR WASHINGTON:

The release of this information would come from DCFS?

ASSEMBLYWOMAN BUCKLEY:

It could be DCFS, a child advocacy organization, the media, a member of the public, a Legislator or someone else. It is not restricted and could be anyone interested in the welfare of a child.

CHAIR WASHINGTON:

Is there a reason you included advocacy groups and the media?

ASSEMBLYWOMAN BUCKLEY:

Federal law requires this information be available to the general public. I believe that if it were not for these advocacy groups or the media, we would not have learned of these deaths.

SENATOR CEGAVSKE:

Who originally asked for and was denied the records in the high-profile death?

ASSEMBLYWOMAN BUCKLEY:

The media asked and was denied then filed a lawsuit attempting to get the records. Several Legislators also requested them and were denied.

SENATOR CEGAVSKE:

You mentioned protection. In that case, is it a reasonable expectancy that when there are deaths the police will say they cannot release anything because there is an ongoing investigation? Can the release of the information sometimes jeopardize a case?

ASSEMBLYWOMAN BUCKLEY:

In my opinion, that was not it at all. A lot of cases were older and were already closed.

Page 4, lines 13 and 14 allow the withholding of information that may undermine a criminal investigation or pending prosecution.

SENATOR CEGAVSKE:

Once there is an incident or suspicion of something, what is the time period allowed for release of information? Is that in the bill?

ASSEMBLYWOMAN BUCKLEY:

That language is in section 3 of the bill. It is, "not later than 48 hours after a fatality and not later than 5 business days after a near fatality." When we discussed the timelines in the Assembly, this was offered by DCFS as being reasonable.

SENATOR CEGAVSKE:

Again, if it undermined a criminal or pending criminal investigation then it would not have to be offered?

ASSEMBLYWOMAN BUCKLEY:

Correct. If you go back to the list of what is provided in the bill, the focus really is more directed at the agency. Were there visits? Were they on top of the case? Should they have been on top of the case? The child-welfare agency is not investigating the crime, the police are the ones who have all the witness statements. This does not affect the police, only the child-welfare agency.

SENATOR CEGAVSKE:

Is the responsibility of law enforcement addressed in the bill?

ASSEMBLYWOMAN BUCKLEY:

That is addressed in several of the other bills coming from the Assembly.

SENATOR CEGAVSKE:

This legislation is a result of a recent case and then there was investigation into other cases where they found appropriate records were not being kept. Is that what prompted the need for this?

ASSEMBLYWOMAN BUCKLEY:

Yes.

CHAIR WASHINGTON:

That case prompted us to submit a bill to the Senate Committee on Legislative Operations and Elections to create the Legislative Committee on Child Welfare and Juvenile Justice.

SENATOR HECK:

How did the decision come about to have the Legislative Auditor as the gatekeeper of the records as opposed to the Office of the Attorney General (OAG)?

ASSEMBLYWOMAN BUCKLEY:

That was a difficult decision. First, we hoped the existing statute would be so clear it would not be needed. We thought about the OAG but they represent DCFS, which would create a conflict. We wanted to put it in a place where there would be no motive to withhold records. Because they are State Executive Branch records, we found it difficult to think of any other place that would be in a neutral position to deal with them. We spoke to the director of the

Legislative Counsel Bureau and the Legislative Auditor and they felt it was a good neutral solution.

CHAIR WASHINGTON:

That makes sense in avoiding conflict of interest.

MICHAEL J. WILLDEN (Director, Department of Health and Human Services):

We are in full support of this bill. We have had two years of problematic times, particularly with child welfare release of information related to fatalities. We found that as a system, we were underreporting child fatalities to the federal government. We did a lot of work on this in the interim and found that we needed to bring our statutes into clearer compliance with the federal Child Abuse Prevention and Treatment Act (CAPTA) of 1974. If you look at the bill on page 6, beginning on line 22, you can see the old language that has been deleted on what child-welfare agencies were previously supposed to do regarding child fatalities. It was not vague language, but it was not as concise as what is needed. We now have a specific list of what can and cannot be released. We are trying to be more proactive in getting information out on this through our agency Website.

I believe this bill will end the process of agencies having to shop for opinions on what should or should not be released in the future.

FERNANDO SERRANO (Administrator, Division of Child and Family Services, Department of Health and Human Services):

We highly support this bill and believe this legislation will advance the cause of child welfare in this State.

CHAIR WASHINGTON:

With this oversight, what kind of leverage or authority will you have over those agencies that do not comply with a request for release of information? There could be a loss of federal funds for noncompliance.

MR. WILLDEN:

The Department of Health and Human Services through DCFS is the oversight agency. In the budget closings today, the Senate Committee on Finance approved eight positions related to CAPTA and oversight of the child-welfare system, quality improvement, the program improvement plan and all the things that we have struggled with over the last few years. This provides us the

resources to ensure that people are working on corrective-action plans and making progress.

Secondly, one of the three Assembly bills making their way over to the Senate deals with fatalities and CAPTA compliance. It also deals with the State's ability among other things to enforce policies and procedures amongst the child-welfare agencies. It provides tools to the DCFS that if we find a noncompliant child-welfare agency we can fine, penalize, withhold money or do other things.

CHAIR WASHINGTON:

Are there any provisions for revocation of licensure?

MR. WILLDEN:

One of those bills coming over from the Assembly deals with licensing of child care institutions. Right now, Child Haven does not operate as a licensed facility. We have testified before that with the way the statute is currently written, the State cannot be involved if there is a local entity that licenses the child care institution. In the case of Child Haven, the local entity for licensing is the City of Las Vegas. They have an ordinance in place that says we do not license governmental entities. That makes that situation a double negative, therefore, they are unlicensed. Assembly Bill 507 is our bill and will change that statutory scheme and says only the State may license child care institutions, and the child care institution will have to adhere to our licensing standards and regulations.

ASSEMBLY BILL 507 (1st Reprint): Makes various changes to provisions concerning facilities that have custody of children pursuant to the order of a court. (BDR 38-1269)

CHAIR WASHINGTON:

Is there anyone else who would like to testify on this bill?

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

We are in full support of this bill. The provisions in this bill will provide greater clarity for the release of information and establish a clear statewide process.

THOMAS D. MORTON (Director, Department of Family Services, Clark County):

We support this bill and believe that all of the provisions will provide better accountability for the child-welfare system. As I have testified before, I support

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even broader openness and would encourage this body in the future to consider similar provisions allowing us to release information on children who die in the system but may not have died as a result of alleged abuse and neglect.

CHAIR WASHINGTON:

Assemblywoman Buckley, based on your testimony, if this bill should pass, would it give Legislators an opportunity to request that information from the Legislative Auditor?

ASSEMBLYWOMAN BUCKLEY:

My hope is that it will never be necessary, and we will now have a clear statute for the child-welfare agencies to release the information directly. If for some reason we cannot obtain the information, then yes, we can request it directly from our Legislative Auditor.

BARRY SMITH (Executive Director, Nevada Press Association, Incorporated):

We are in support of this bill. Our interest is public disclosure of the information. I have provided a news article ([Exhibit E](#)) that may remind you of some of the background on the issues in Clark County.

SENATOR WIENER MOVED TO DO PASS A.B. 261.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WASHINGTON:

I will now reopen the hearing on A.B. 313.

ASSEMBLY BILL 313 (1st Reprint): Revises provisions governing the tracking, monitoring and revocation of teacher licenses for criminal behavior. (BDR 34-731)

ASSEMBLYMAN JOHN OCEGUERA (Assembly District No.16):

This bill will require the Department of Education to establish a procedure for the notification, tracking and monitoring of the status of criminal cases involving licensed teachers. This bill will require school districts to notify the

Department of Education if a licensed teacher is arrested. It is important that we open the channels of communication so that our children are safe. One of the reasons I brought this bill forward is because of a case in Clark County. Nearly two years ago, a substitute teacher pled guilty to sexually assaulting an eight-year-old boy. It took almost two years for the State Board of Education to bar this man from returning to the classroom. The reason he slipped through the cracks is because the Department of Education lacked procedures to track these teachers. His license was suspended immediately after the news of his arrest reached State officials.

I do not believe we should rely on news reports to protect our children. A Legislative Counsel Bureau audit uncovered an alarming lack of policies and procedures to track criminal cases involving educators. The Department of Education has no ongoing mechanism for monitoring cases. Without this routine monitoring it is difficult for the Department of Education to know the status of criminal cases. There were two recommendations from the audit. One was to develop case documentation procedures over the teacher licensure revocation process. The second was to establish a tracking system to monitor criminal-case status. Other states are taking similar action. As an example, New Mexico reversed its "wait and see" policy on pending criminal cases.

We need to keep predators out of Nevada classrooms, and I think this bill will accomplish that.

SENATOR CEGAVSKE:

Thank you for bringing this bill forward. I think all of us who live in this State were appalled in the 1 year that there were over 12 teachers that had some type of sexual relationship with a student. Is there anything you have heard testimony on for what we can do to keep them from even getting a license to teach in the classroom in the first place? Did the person you were referring to have any prior criminal history?

ASSEMBLYMAN OCEGUERA:

I do not know the particulars of that case other than what I read in the newspaper.

SENATOR CEGAVSKE:

I was curious. I know we fingerprint, but I do not know the process. I am shocked that prior to this legislation, the Department of Education did not have

to be notified by any of the school districts. Was there anything in the NRS that indicated they should have been notified?

ASSEMBLYMAN OCEGUERA:

I think there was a real disconnect in not only the school districts not communicating with the State Board of Education, but school districts talking to law enforcement.

SENATOR CEGAVSKE:

Will this help with both of those issues? Are you only concentrating on schools or are you concentrating on both?

ASSEMBLYMAN OCEGUERA:

I think so.

I am concentrating on the school districts and the Department of Education, but I think this will assist on the back end.

I think there are procedures in place for not only criminal background checks but fingerprinting and running them through the criminal history repository.

SENATOR CEGAVSKE:

Was anything discussed with the school districts about policy on teachers being alone with a student?

ASSEMBLYMAN OCEGUERA:

That was not brought up.

CHAIR WASHINGTON:

Throughout the bill, you mentioned the Department of Education and a timely manner. Was that just to make sure there was not a fiscal note placed on the bill?

ASSEMBLYMAN OCEGUERA:

No. This is language developed by the Legal Division of the Legislative Counsel Bureau.

KEITH RHEAULT, Ph.D. (Superintendent of Public Instruction, Department of Education):

We support this bill. It is in line with our audit requirements.

We do a full Federal Bureau of Investigation (FBI) check and also use the Central Repository for Nevada Records of Criminal History (the repository), Department of Public Safety. If there is anything on those reports, they do not get a license to begin with. All of the cases we have worked with are individuals who have had a previous criminal background check.

It is true the school districts and charter schools were never required to report to the Department of Education. There have been a number of bills over the last six to eight years that have included that and have not been passed. Most of the time we find out things through the newspaper, or in some cases, it is reported by the school district. It would speed our processes if we were notified. In the case mentioned by Assemblyman Ocegueda, the school districts, once they are aware of something, take action and can suspend for employment purposes. Once they have a license issued by the State there are legal steps that must be followed on rights and rights to appeal hearings. There is language in section 6, subsection 6 of the bill that addresses that. It is not a quick process. Upon notification that a person has at least been arrested for a crime, we put a flag on their license file. In that case, a license renewal would not happen until the case is cleared.

SENATOR WIENER:

What mechanism will you develop for notification?

DR. RHEAULT:

In the procedures we have developed as part of the audit, we are going to have a periodic check probably every two months.

SENATOR WIENER:

But, if you were notified immediately upon conviction, you would not lose the two months.

How many people have been denied licensure as a result of things found in the background checks?

DR. RHEAULT:

The repository is more helpful if it was a crime in Nevada. Most of the time we get reports from them for a driving under the influence violation or something that is not a major crime because those things are picked up fairly quickly by the newspapers. However, we have had cases where two years after a license has been issued we are notified by another state that they have revoked or suspended a license based on a case from two to three years ago. At that point, we begin procedures based on that revocation. There are times when a revocation or suspension does not show up on the national data bank.

SENATOR WIENER:

What would prompt notification from another state two or three years later?

DR. RHEAULT:

In some cases I have had warning calls from states where they thought a teacher may be moving to Nevada. We belong to the National Association of State Directors of Teacher Education and Certification (NASDTEC). They maintain the national database for all teachers who had their license suspended for more than six months or revoked. We get updated information from them in an electronic format that we run against our licensing database.

SENATOR WIENER:

Do you inform the school districts when you get new information on a licensee?

DR. RHEAULT:

We cannot give individual FBI information because that is prohibited. We do notify school districts, based on current information we receive, that we are aware that an individual has had a suspended or revoked license in another state. That is when we start the process of trying to obtain the information on the licensee to move forward with the license-revocation process.

A recently passed regulation allows us to immediately invalidate a license if we find that someone did not notify us of a conviction upon issuance of a license. Otherwise, we would have to go through a full hearing and the judicial process with that licensee.

SENATOR HORSFORD:

The bill repeatedly refers to individuals who are licensed pursuant to chapter 391 of the NRS. I am not clear as to all of the educational personnel that encompasses.

DR. RHEAULT:

Chapter 391 of the NRS provides the authority to license all school administrators, teachers, school counselors, school nurses and professional support staff. It does not cover school bus drivers or any non-licensed staff.

SENATOR HORSFORD:

Assemblyman Ocegüera, is your intent to just limit it to the licensed personnel? I mean no offense to support staff, but bus drivers could be arrested for things we really probably do not want to know about.

ASSEMBLYMAN OCEGUERA:

I would have to defer that question. I am not sure of the background checks that take place for the support personnel.

DR. RHEAULT:

Employment background checks are performed for support personnel but the reason they do not apply to this is that there is no license to revoke. For them it would be an employment situation and the school district could fire them.

SENATOR HORSFORD:

My issue is how the Department of Education would track them after leaving one school district and then becoming employed by another.

DR. RHEAULT:

If they changed school districts, a background check would be required when they apply at the new school district. That is when the information on the previous firing would be identified.

SENATOR HORSFORD:

This is about tightening the process and if Assemblyman Ocegüera is open to it, I would like to see how we could address that. We want to protect the children in every manner possible, and I do not think we want to exclude one category of personnel over another.

DR. RHEAULT:

I would like to make one additional point. We have also had a few cases where teachers have been arrested but were employed by private schools. In those cases, they are not licensed by the State and there is not a license to revoke.

CHAIR WASHINGTON:

I understand.

SENATOR WIENER:

Does the NASDTEC capture the non-licensed personnel information?

DR. RHEAULT:

It is only licensed personnel because most states cannot proceed because there is nothing to report. Most of those individuals are just fired from employment.

CHAIR WASHINGTON:

I think it would be better to have a specific date or time frame stated in the bill instead of just using the language of "timely manner."

DR. RHEAULT:

Section 3, subsection 1 requires us to develop regulations. Part of the regulations will describe what is meant for "timely manner."

JAMES JACKSON (Nevada State Education Association):

When that question was raised to Assemblyman Ocegueda, we did not want to put something in statute that might prescribe a timeline that could potentially allow a case to fall through the cracks. We are in support of this bill and would be happy to provide our resources for any additional work you may want done regarding the previous concerns on this bill.

SENATOR CEGAVSKE:

Is the Nevada State Education Association (NSEA) notified if a member is arrested or disciplined? If so, do you do anything to alert other associations or groups? How does the NSEA respond in a situation like this when alerted of a predator?

MR. JACKSON:

I will have to get back to you on whether we were notified of the situation of the individual Assemblyman Ocegüera cited. I do not know if the person was a member of the NSEA.

SENATOR CEGAVSKE:

I was just referring to that particular case. As a member, what does the NSEA do after notification? Does the NSEA have an obligation to alert other associations or organizations to not hire an individual?

MR. JACKSON:

I do not know if we take any steps to say we notify other associations. My gut reaction is no. If a member contacts the NSEA and asks for representation with respect to a grievance or termination procedure, those resources are available. That is why we support this bill. If a person is found to have problems with licensure and should not have a license, we support the notion that person should not be in the classroom.

SENATOR CEGAVSKE:

I was just looking for the NSEA to take it a step further and notify other associations in other states.

MR. JACKSON:

As a final comment, if that person is not hired or licensed, they will not be a part of the association anyway. If they are terminated, I would think they would also be terminated with the NSEA.

JULIANNA ORMSBY (Nevada Women's Lobby):

We are in support of this bill.

LOUISE HELTON:

I am asking for your support of this bill. I have had the wonderful opportunity to raise two children who were educated in the Clark County School District (CCSD). Both of my children were gifted students and I was fortunate to be in a position where I was a stay-at-home mom and could support their public school education. My daughter Adrienne was my oldest and loved school. Her middle school years were spent at J. Harold Brinley Middle School. That school employed the team-teaching method where 150 students shared the same core teachers. I was involved in the school as the team mother for Adrienne's team.

As such, I was often at the school and familiar with the teachers and students. That year Adrienne's favorite teacher was her math teacher. Consequently, math became one of her favorite subjects. I met her math teacher at parent night and saw him on other occasions while at the school. He was an engaging young man and all of the kids in the school thought he was cool. I was impressed with how many of the kids I had known since elementary school also thought his class was great and had become excited about math.

You can imagine my shock when Adrienne was a senior in high school and I saw a news story about her former math teacher who had been arrested, sent to prison and, of course, dismissed from the CCSD. Apparently, at the time my daughter was in his class and for several years later, this teacher had carried on an inappropriate relationship with one of my daughter's schoolmates. When I asked Adrienne about it she admitted she had seen this teacher and a young girl together several times when she had visited a friend who lived in the neighborhood where the teacher lived. I felt betrayed by this man and inadequate as a mother. I knew this could have been my child. I was not a mom who phoned it in as a parent and was incredulous that I was at school so often and had held this teacher in such high esteem. With employers having fewer and fewer opportunities to warn other employers, how could anyone have known? Certainly there are protections that should be available to former employees. However, there are some areas that are too important to leave to chance. It is undeniable that one of the instances when you should have all the information available is when you are placing someone in a position to access a vulnerable population. Teaching is one of the most important positions that could be affected and at the very least parents, students, the State and any school district should be assured. It should be any criminal cases involving licensed teachers or other personnel that should be closely tracked with the results reported so that all may know. That is why your support of this bill is so important.

DONNA HOFFMAN-ANSPACH (Nevadans for Quality Education):

We are in support of this bill and I am providing the Committee with a copy of my written testimony ([Exhibit F](#)).

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CHAIR WASHINGTON:

Assemblyman Ocegüera, it is my intent to move this bill as quickly as possible. Please meet with Senator Horsford to address his issues and provide the necessary amendment, if required. We need that back to the Committee by May 11.

ASSEMBLYMAN OCEGUERA:

I will.

CHAIR WASHINGTON:

I will now close the hearing on A.B. 313. The meeting of the Senate Committee on Human Resources and Education is now adjourned at 3 p.m.

RESPECTFULLY SUBMITTED:

Jeanine Wittenberg,
Committee Secretary

APPROVED BY:

Senator Maurice E. Washington, Chair

DATE: _____