

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

**Seventy-fourth Session
May 7, 2007**

The Senate Committee on Human Resources and Education was called to order by Chair Maurice E. Washington at 1:51 p.m. on Monday, May 7, 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:

Assemblyman Moises Denis, Assembly District No. 28
Assemblywoman Sheila Leslie, Assembly District No. 27

STAFF MEMBERS PRESENT:

Marsheilah D. Lyons, Committee Policy Analyst
Joe McCoy, Committee Policy Analyst
Sara Partida, Committee Counsel
Shauna Kirk, Committee Secretary

OTHERS PRESENT:

Sabra Smith-Newby, Clark County
Fernando Serrano, Administrator, Division of Child and Family Services,
Department of Health and Human Services
Michael J. Willden, Director, Department of Health and Human Services

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Glenn Campbell

Denise Tanata Ashby, Executive Director, Nevada Institute for Children's
Research and Policy, University of Nevada, Las Vegas

Dottie Whitaker

Joanee Quirk, Program Administrator, Controlled Substance Abuse Prevention
Task Force, State Board of Pharmacy

Lawrence P. Matheis, Executive Director, Nevada State Medical Association

Lea Lipscomb, Retail Association of Nevada

Barbara Legier, Deputy Administrator, Family Programs, Division of Child and
Family Services, Department of Health and Human Services

Richard Gammick, District Attorney, Washoe County

Barry Smith, Nevada Press Association

Cynthia Sauchak, Child Fatality Review Team

Cotter C. Conway, Deputy Public Defender, Public Defender's Office, Washoe
County

Carlos Brandenburg, Ph.D., Administrator, Division of Mental Health and
Developmental Services, Department of Health and Human Services

CHAIR WASHINGTON:

We will open the hearing on Assembly Bill (A.B.) 147.

ASSEMBLY BILL 147 (1st Reprint): Makes various changes concerning the
placement of a child into protective custody. (BDR 38-869)

ASSEMBLYWOMAN SHEILA LESLIE (Assembly District No. 27):

I am here on behalf of the subcommittee to study the health, safety, welfare,
civil and other rights of children in the care of certain governmental entities or
private facilities. We started out focusing on facilities where the court orders
placement of children. However, other problems in Clark County were also
exposed. For young children, group care is detrimental to their healthy
development. In our research, we found that babies need to be cared for by
families. When they are cared for by people in a shift environment and handed
to a different person every eight hours, the baby is unable to bond with the
caregiver and develops an attachment disorder. There are many studies that
show physical evidence of emotional damage in young children when cared for
in a group setting. Children are distressed when they leave their caregiver. A
substitute mother, as in a family foster home, can help the child cope. This bill
takes that new knowledge about child welfare and puts it into practice. It asks
that children under the age of three years, the youngest and most vulnerable,

not be placed in a child-care institution of 16 or more children unless appropriate foster care is unavailable in the county where the child resides. There would be an exception for children requiring medical services that can only be provided in a congregate-care setting. We do not want to separate siblings. If there is no placement available, the child should be placed where room is available. The placement would then be reported to the court, then to the Department of Health and Human Services (DHHS) and ultimately to the Legislature to see where the problem lies. We added five additional foster-care workers to the Clark County budget to recruit and train foster families. There have been unfortunate situations where children have been hurt and some have died in both types of care. This bill is not making a judgment about any particular incident. It is saying what is best for young children. The Clark County Commission can testify that they have agreed this is the right thing to do and have issued their intent to move towards this as well.

SABRA SMITH-NEWBY (Clark County):

Clark County is in support of this bill. It memorializes what we have in another agreement with the National Center for Youth Law.

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

The Division of Child and Family Services (DCFS), Department of Health and Human Services, is in full support of A.B. 147.

CHAIR WASHINGTON:

We will open the hearing on A.B. 507 and leave A.B. 147 open.

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)

ASSEMBLYWOMAN LESLIE:

Assembly Bill 507 deals with training, inspections and licensing. Sections 1, 6, 12, 13 and 14, deal with the kind of training that should be given within 30 days after employment and annually thereafter. The training areas on page 2, lines 8 through 20, are the things the subcommittee felt strongly about. We want to ensure that anywhere a child is placed, the staff has adequate training. Section 2 states, if a child is transferred out of state, the DCFS shall physically

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inspect that out-of-state facility. Sections 5, 8 and 9, states the facility cannot license itself.

CHAIR WASHINGTON:

We just heard A.B. 188 dealing with licensure. Is there anything different in your bill that we missed in A.B. 188?

MICHAEL J. WILLDEN (Director, Department of Health and Human Services):
That bill has been rolled into A.B. 507.

ASSEMBLY BILL 188: Makes various changes to provisions governing the licensing of certain child care facilities. (BDR 38-599)

CHAIR WASHINGTON:

In section 1, you have a list of things in which foster-care homes' staffs are to be trained. How did you come up with the list?

ASSEMBLYWOMAN LESLIE:

We had our consultant look at different policies and procedures and report them back to us. These recommendations are what came from that report.

CHAIR WASHINGTON:

Is there a certain training manual that provides the material and information for these categories?

ASSEMBLYWOMAN LESLIE:

We requested that the different institutions provide us with all of their policies and procedures. There are standard best practices such as suicide awareness, but there is no one policy and procedure manual. This effort has helped us see the weak points.

MR. WILLDEN:

During the licensing process, we can provide technical assistance and help with training to ensure the list is complied with.

CHAIR WASHINGTON:

We will now go back to A.B. 147.

GLENN CAMPBELL:

I am a child welfare activist, and I also host a Website, <familycourtchronicles.com>. I was against this bill; however, I believe it is now workable. The mistake comes when we say group care is always bad for older infants. Children at the age of three to five years are going to nursery school and kindergarten and are familiar with a group setting. I will read from my testimony regarding this bill ([Exhibit C](#)).

CHAIR WASHINGTON:

According to your testimony, you want to retain the placement of children under the age of three years and delete section 6.

MR. CAMPBELL:

That is correct.

CHAIR WASHINGTON:

We will close the hearing on A.B. 147 and go back to A.B. 507.

DENISE TANATA ASHBY (Executive Director, Nevada Institute for Children's Research and Policy, University of Nevada, Las Vegas):

We were the consultants for the subcommittee to study the health, safety, welfare and civil rights of children. The Child Welfare League of America has a set of standards for residential facilities. Implementing the training would vary by type of facility. The juvenile correction facilities, juvenile detention facilities and substance abuse and mental health treatment facilities were all included in this study. I have given you my written testimony ([Exhibit D](#)).

MR. CAMPBELL:

Child Haven is a unique institution and an institution of the last resort. The licensing requirements have to be more flexible. Child Haven is the most observed institution in Nevada.

CHAIR WASHINGTON:

We will close the hearing on A.B. 507 and open the hearing on A.B. 446.

ASSEMBLY BILL 446 (2nd Reprint): Revises provisions governing the tracking of prescriptions for controlled substances. (BDR 54-928)

ASSEMBLYMAN MOISES DENIS (Assembly District No. 28):

Assembly Bill 446 deals with finding help for people with an addiction to prescription drugs. It asks that practitioners who write prescriptions for schedule II, III and IV controlled substances check a database maintained by the State Board of Pharmacy. In an article entitled, "The Dark Side of Prescription Drugs," Patti Geier gives the perfect opening for this bill. She says:

A great deal has been written about alcoholism and drug addiction over the last two decades. However, information regarding prescription drug abuse and addiction only seems to surface when someone famous has a problem and needs treatment or dies. Historically, prescription drug addiction has been the most underreported drug abuse problem in the nation. It is also the least understood. Addiction to and withdrawal from prescription drugs can be more dangerous than other substances because of the insidious nature of these drugs.

Today, I want to discuss the problem of prescription drug addiction and how A.B. 446 can be apart of the solution. There are many parts to the solution for this problem, and A.B. 446 is one part. It is not a perfect solution, but a good start. Dottie Whitaker is here from Las Vegas to share her story with you. In my church responsibilities over the past few years, I have been helping someone who is addicted to prescription drugs. The individual must take responsibility for their actions; however, there are things that we can do to help.

DOTTIE WHITAKER:

This is a picture of my daughter, Tammy. It was taken two weeks before Tammy died from an overdose of prescription pain pills. After a car accident at 30 years of age, she became addicted to prescription pain pills. She went to rehabilitation twice. Unfortunately, Tammy relapsed and died. If the doctor had taken a look at her prescription monitoring report, he would have made a different decision in the prescription given to her the day she died. Addiction is a lifelong disease. You do not get over it. It is a life of recovery.

ASSEMBLYMAN DENIS:

Assembly Bill 446 asks doctors and the State Board of Pharmacy to be part of the solution. We have worked together on this. This bill requires a practitioner to obtain a patient utilization report for the preceding 12 months before writing a prescription for a scheduled II, III or IV controlled substance to a patient who

may be seeking the controlled substance for reasons other than the treatment of a medical condition. The report is generated by a computerized program established by the State Board of Pharmacy and the Investigation Division of the Department of Public Safety. The State Board of Pharmacy must give access to their database to practitioners authorized to prescribe schedule II, III or IV controlled substances.

CHAIR WASHINGTON:

Is there a fiscal note to implement the database?

ASSEMBLYMAN DENIS:

No. The database already exists.

JOANEE QUIRK (Program Administrator, Controlled Substance Abuse Prevention Task Force, State Board of Pharmacy):

We have been collecting controlled-substance prescriptions data since 1997. We have a secure Web-based system where doctors can go, input the patient information and within 20 minutes get a report of the patient's 12-month prescription history. We are working on a software program that will have an auto response 24 hours a day, 7 days a week.

CHAIR WASHINGTON:

The bill states the practitioner may request a report of the drugs prescribed to the patient in the last 12 months. Am I reading it correctly?

ASSEMBLYMAN DENIS:

It states on page 2, line 9, the practitioner shall review the patient utilization report to assess whether the prescription for the controlled substance is medically necessary.

SENATOR WIENER:

Does it provide cumulative information from all the different places and doctors the person may have gone for the prescription drugs?

Ms. QUIRK

Yes. We collect all controlled-substance prescriptions throughout the whole State from each pharmacy. We collect data every two weeks, and it will soon be once a week. The report will show the doctor who prescribed it, the

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pharmacy that filled it, the date that it was filled, the quantity, the strength and estimated day supply.

SENATOR WIENER:

Is there something magical about the 12 months versus 6 months or 9 months?

Ms. QUIRK

Twelve months seemed to be a good history of a person.

CHAIR WASHINGTON:

What is the current practice regarding a practitioner who prescribes scheduled II, III and IV level drugs? Do they request or require a report?

Ms. QUIRK

It is strictly voluntary on their part. We do generate about 200 reports a day. Last year, we did approximately 40,000. We can set a threshold of more than 50 prescriptions on a report and manually do it.

CHAIR WASHINGTON:

Is that your threshold?

Ms. QUIRK

We have not set it as far as the auto response. Our threshold changes with the doctor shoppers and is confidential. The doctors will ask for their own prescribing to make sure that no one is using their prescription pads.

SENATOR WIENER:

Are doctors required to notify anyone when a prescription pad has been lost or misplaced?

Ms. QUIRK

They do voluntarily.

SENATOR WIENER:

In the 40,000 incidences in the past year, how many of those were physician generated?

Ms. QUIRK

Those were strictly for patients. I get 30 to 40 a year from individual doctors.

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ASSEMBLYMAN DENIS:

One concern was the emergency room doctors, because doing a report that takes 20 minutes is not very helpful to them. There is a program update coming that will allow them to get a report within 30 seconds.

LAWRENCE P. MATHEIS (Executive Director, Nevada State Medical Association):
The Nevada State Medical Association supports the bill.

LEA LIPSCOMB (Retail Association of Nevada):
The Retail Association of Nevada is also in support of A.B. 446.

VICE CHAIR CEGAVSKE:
We will close the hearing on A.B. 446, and we will open the hearing on A.B. 263.

ASSEMBLY BILL 263 (1st Reprint): Makes various changes to provisions governing the abuse and neglect of children. (BDR 38-598)

MR. WILLDEN:

About a year ago, we created a Blue Ribbon Panel to look at child fatalities. We started in Las Vegas and went statewide. At the end of that process, the Panel looked at legislation that may be needed to improve the child welfare system in Nevada. One area that was looked at was the Child Abuse Prevention and Treatment and Adoption Reform Act (CAPTA). They made a number of recommendations of departmental oversight, and this bill will deal with some of those issues. Sections 6, 7 and 20 are the controversial issues which we do not need in the bill. In section 1, it is made clear the Department of Health and Human Services, through DCFS, is the agency that provides the oversight for juvenile justice and child welfare issues in this State. You can see in section 3, I have deleted by amendment. We had a section on missing children that was moved to another bill. Section 4 makes it clear the DCFS, can, along with local child welfare agencies, create a multidisciplinary team (MDT). Section 5 makes it clear that if DCFS creates an MDT, the confidentiality provisions also apply. Section 6, we can jettison. There are three teams that look at child fatality issues. Under current law, the local teams are exempt from the open meeting law. They meet in total confidence. The administrative team hears reports from the local teams. The Blue Ribbon Panel looked at the idea of closing a portion of the administrative team's meetings in order to go into the closed local team's meeting and discuss the fatality team. However, that caused huge problems for

the local teams. Our suggestion is to jettison section 6. Section 7 concerns the prosecution of cases. There is a suggestion that if the district attorney does not prosecute a case, there is a grand jury process. This is very controversial, and I would hate to see the bill lost for this section. The Department recommends dropping section 7 also.

SENATOR CEGAVSKE:

Is that because the district attorney had objections?

MR. WILLDEN:

The district attorney had objections. Section 8 is an important section and should be kept. This deals with the oversight by the Department and the Division and deals with evaluations of local child welfare agencies. On the bottom of page 5, section 8, you will see if the Department levies fines, the fines would go into a fund and only be used to improve child welfare services. Section 10, page 9, deals with cooperation amongst the entities.

SENATOR HORSFORD:

Can an agency, in section 8, use the funds allocated by the State to pay those fines? How would they pay the fine?

MR. WILLDEN:

It would be the county general fund dollars.

SENATOR HORSFORD:

Does it need to be stated they cannot use the funds that are given to provide these services?

MR. WILLDEN:

We could make that clear.

SENATOR HORSFORD:

How is the State fining the State going to work?

MR. WILLDEN:

We have had difficulty dealing with that. The funds would be dealt with through an Interim Finance Committee process or out of the budget and moved to a special account for corrective action. It would be moved to a corrective action fund to improve the child welfare system. Section 10, subsection 6, is

about the cooperation among the entities that investigate a child fatality and makes sure information is exchanged.

SENATOR CEGAVSKE:

Why did you feel the need for the appropriate district attorney and law enforcement agency which is on page 9, line 19?

MR. WILLDEN:

There is only one district attorney, but there are multiple law enforcement agencies in Clark County and both are notified. Section 11, subsection 2, adds a new requirement for when an immediate child protective services investigation should be done. We found not all of the siblings were interviewed in a fatality case and want to be sure that is done. You can see that on page 11, section 12.

SENATOR HORSFORD:

Is that in every case?

MR. WILLDEN:

We are talking about siblings in the home. If there was a fatality, all of the siblings were not being interviewed.

SENATOR HORSFORD:

I am looking for appropriateness. You would not want to interview an 18-month-old child.

MR. WILLDEN:

Correct.

SENATOR CEGAVSKE:

Do lines 25 and 26 on page 11 take care of that?

MR. WILLDEN:

You do not want to interview an 18-month-old.

SENATOR WIENER:

We do not want to be too limiting. There are situations where an older sibling may be out of the home who was also subject to child abuse or witnessing it.

It could be a trend of behavior where an out-of-house sibling might be important in the investigation.

SENATOR NOLAN:

We want to make sure that the interview is done by someone who has been trained to ensure it is done correctly.

SENATOR CEGAVSKE:

We have asked staff to look into that for the work session on this bill.

MR. WILLDEN:

The intent on page 13, section 15, subsection 3, is to make it clear that investigations are done even though there are no other siblings. There may be a future child.

SENATOR CEGAVSKE:

We want to make sure there is an investigation, but we also do not want to penalize them if it truly was an accident.

MR. WILLDEN:

We have two categories which are substantiated and unsubstantiated. If it was an accident, the investigation would be deemed an accidental death and unsubstantiated.

SENATOR CEGAVSKE:

You just want to make sure that they are not going to house any more children.

SENATOR WIENER:

Reasonable cause to believe would be a standard used in order to take the next step.

SENATOR CEGAVSKE:

I was trying to get at whether there is reasonable cause.

MR. WILLDEN:

The intent we want to ensure is there are no grounds to close a case because the only child has died. Section 16 deals with the Central Registry where reports of abuse and neglect are maintained and adds language as to what needs to be maintained in the registry. Section 18 deals with the appointment

of local child fatality teams or MDTs. Those are provisional appointments that will be reviewed by the statewide executive committee. We want to make sure the type of individuals on child-fatality teams are people we need to review the deaths. Section 20 relates back to section 7, and it could be jettisoned.

MR. SERRANO:

Even with the removal of section 6, 7, and 20, there is a lot that will greatly enhance the dealings of a child's welfare. I cannot emphasize enough the corrective-action plan and the intensity in which it will be addressed.

SENATOR CEGAVSKE:

Have you looked at other states and what they are doing?

MR. WILLDEN:

Yes. We have consulted with national technical-assistance groups to help with this process.

SENATOR HORSFORD:

Why are we repealing the *Nevada Revised Statute* 432B.395?

MR. WILLDEN:

It is no longer required by CAPTA so that section is being repealed.

BARBARA LEGIER (Deputy Administrator, Family Programs, Division of Child and Family Services, Department of Health and Human Services):

That section is addressed through the federal government's Adoption and Safe Families Act now and is explained in my written testimony ([Exhibit E](#)).

SENATOR HORSFORD:

This requires a report to be done. Is that report required by the federal government, and we are still doing it on an annual basis?

MS. LEGIER:

Correct. That is through our annual plan of services report.

SENATOR HORSFORD:

Can I get a copy of that?

MS. LEGIER:
Yes.

SENATOR HORSFORD:
I still have a problem with the State fining the State.

SENATOR CEGAVSKE:
What they are looking for is a hammer for administrators. How did you come up with fines? Why would it not be under employment such as unpaid leave?

MR. WILLDEN:
There are four things that can be done to get their attention when a corrective-action plan has failed which are withhold funds, fines and penalties, direct supervision and discipline. If we are not getting compliance in rural child welfare, we will be changing leadership.

SENATOR HORSFORD:
I understand that, but there are reasons why an agency may not meet a corrective-action plan. We do not have enough recruiting and training or enough people to do the work. Are we going to be fining agencies because there are not enough people to come in and do this work?

SENATOR CEGAVSKE:
Is the fine going to come out of their budget?

MR. WILLDEN:
I do not intend to start levying fines. A corrective-action plan is not going to be a 30-day corrective-action plan or even a 90-day plan. Fines and penalties will be reserved for the worst case.

SENATOR HORSFORD:
I support giving the authority. The legislative record should be enough. I would not want to see an agency get fined and lose money needed to help with the recruiting needs.

MR. WILLDEN:
The federal government can ultimately penalize the State if we are out of compliance, and the same needs to be in place for the local child welfare agencies.

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SENATOR CEGAVSKE:

We need something. We just need to agree on what that is.

RICHARD GAMMICK (District Attorney, Washoe County):

I was originally opposed to this bill. Provided that sections 6, 7 and 20 are deleted, I am in support of the bill.

BARRY SMITH (Nevada Press Association):

I am in support of this bill.

MS. TANATA ASHBY:

Our major concern has been deleted.

CYNTHIA SAUCHAK (Child Fatality Review Team):

My concern has also been deleted.

COTTER C. CONWAY (Deputy Public Defender, Public Defender's Office,
Washoe County):

The Public Defender's Office of Washoe County is not in opposition with the changes.

VICE CHAIR CEGAVSKE:

We will close the hearing on A.B. 263 and will open the hearing on A.B. 233.

ASSEMBLY BILL 233 (1st Reprint): Increases the number of members of the Commission on Mental Health and Developmental Services. (BDR 18-625)

CARLOS BRANDENBURG, Ph.D. (Administrator, Division of Mental Health and Developmental Services, Department of Health and Human Services):

The Legislature passed A.B. No. 2 of the 22nd Special Session which transferred the Bureau of Alcohol and Drug Abuse from the Health Division to the Division of Mental Health and Developmental Services (MHDS). The members of the Commission on Mental Health and Developmental Services are a legislative-created body that provides policies for the MHDS. Since we will have a member of the substance abuse community, we thought it would be important for us to be able to interrogate mental health with substance abuse by adding a member to the Commission who has the experience in the area of substance abuse prevention or treatment.

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VICE CHAIR CEGAVSKE:

We will close the hearing on A.B. 233, and we will adjourn the Senate Committee on Human Resources and Education at 3:18 p.m.

RESPECTFULLY SUBMITTED:

Shauna Kirk,
Committee Secretary

APPROVED BY:

Senator Maurice E. Washington, Chair

DATE: _____