

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON HEALTH AND HUMAN SERVICES  
SUBCOMMITTEE ON HEALTH AND HUMAN SERVICES**

**Seventy-Fifth Session  
March 5, 2009**

The Committee on Health and Human Services Subcommittee on Health and Human Services was called to order by Chairwoman Peggy Pierce at 3:35 p.m. on Thursday, March 5, 2009, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/75th2009/committees/](http://www.leg.state.nv.us/75th2009/committees/). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Peggy Pierce, Chairwoman  
Assemblyman Joseph (Joe) P. Hardy  
Assemblywoman April Mastroluca

**COMMITTEE MEMBERS ABSENT:**

None

**STAFF MEMBERS PRESENT:**

Amber Joiner, Committee Policy Analyst  
Chris Kanowitz, Committee Secretary  
Olivia Lloyd, Committee Assistant

**OTHERS PRESENT:**

Diane J. Comeaux, Administrator, Division of Child and Family Services,  
Department of Health and Human Services  
Thomas D. Morton, Director, Department of Family Services,  
Clark County, Las Vegas, Nevada  
P.K. O'Neill, Division Chief, Records and Technology Division, Department  
of Public Safety  
Amber Howell, Acting Deputy Administrator, Division of Child and Family  
Services, Department of Health and Human Services

**Chairwoman Pierce:**

[Roll called. Reviewed the rules of testifying.] On today's agenda, we have two bills to consider, Assembly Bill 76 and Assembly Bill 83, which were previously considered by the full Committee on Health and Human Services on February 16, 2009. I will open the hearing on A.B. 76.

**Assembly Bill 76:** Revises provisions governing the placement of children who are in the custody of an agency which provides child welfare services. (BDR 38-332)

**Diane J. Comeaux, Administrator, Division of Child and Family Services,  
Department of Health and Human Services:**

At the last hearing, Mr. Morton offered an amendment to the bill ([Exhibit C](#)). In section 2, subsection 7, the bill indicates that care is voluntarily provided to minors who are in the custody of an agency. Mr. Morton requested that the word "voluntarily" be removed from this bill, and so our amendment includes that removal.

**Chairwoman Pierce:**

We have your amendment. Do you want to review the amendment?

**Diane J. Comeaux:**

This is the only additional change that we made to our original amendment that we offered at the hearing in February. Did you want me to review the original amendment?

**Chairwoman Pierce:**

So everything that is on this amendment that you submitted to us is the same as the amendment that you offered in February, except for that one change?

**Diane J. Comeaux:**  
That is correct.

**Assemblywoman Mastroluca:**  
Can you remind me why you wanted to remove the word "voluntarily"?

**Thomas D. Morton, Director, Department of Family Services, Clark County, Las Vegas, Nevada:**

Under the *Nevada Revised Statutes* (NRS), voluntary placements are generally considered placements made at the request of a parent. Since the types of placements referred to in the proposed subsection 7 were actually placements made under an order of a court, they are technically not voluntary placements, they are court-ordered placements. So I had asked that the word "voluntary" be removed to avoid confusing these placements with placements at the request of a parent or caregiver. I also requested that the phrase "applied for" be changed to "have been licensed" to clarify that relatives are eligible placements up until the point of licensure and therefore, would be exempt from meeting the requirements of NRS Chapter 424 if the child is placed with a relative under an order of a court.

**Assemblyman Hardy:**  
Is section 1, subsection 2, paragraph (a), of the amendment alluding to an amendment that we saw back in February, or is this a new amendment?

**Diane J. Comeaux:**  
The section that you are referring to was a part of the amendment that we had originally submitted. We submitted that information to the Committee through the Governor's Office, in a memo dated January 28, 2009 [which was presented to the Committee at the February 16, 2009 meeting].

**Assemblyman Hardy:**  
I guess I am looking for a mock-up. I am looking for the verbiage, and I do not see the verbiage; I only see the intent. Have we already figured out that we like that intent?

**Chairwoman Pierce:**  
My recollection of the testimony was that the federal government does not have a name-based database set up at this point. There was anticipation that they would, but they do not. So, that is why we need to go to the fingerprint-based criminal record. Is that correct?

**Diane J. Comeaux:**  
That is correct.

**P.K. O'Neill, Division Chief, Records and Technology Division, Department of Public Safety:**

Included within our Records and Technology Division is our Criminal History Repository. Currently a fingerprint-based check is a unique identifier. So far, only one individual has one set of fingerprints; there are no two alike. With a name-based check, which is from the Interstate Identification Index (III), there can be multiple names and dates of birth within the records. The records can become intermingled, and it is not an exact science, but fingerprints are. Due to that inconsistency and shortcoming of the III system, the Advisory Policy Board, of which Nevada is a member, restricts the usage of computer name-based checks. We feel the best way to get a true identification on an individual is through fingerprints, and that is why we do not allow, except for in very strict law enforcement circumstances, the Interstate Identification Index to be run on individuals; it has to be related to a criminal investigation. Fingerprint-based is the best identifier of individuals and is the best way to access criminal history information. Name-based checks actually would not be allowed if this bill became statute as currently written, and the Criminal Justice Information Services (CJIS) would not allow the Division of Child and Family Services (DCFS), or any other agencies, to receive the information; it would be restricted. If we tried to do the name-based checks, the state could suffer the ramifications of loss of access to the entire database for all entities within the state.

**Assemblyman Hardy:**

So you are proposing to eliminate section 1, subsection 2 (a)?

**P.K. O'Neill:**

Yes, sir.

**Assemblyman Hardy:**

So does that mean in number 2 of the proposed amendment, you are proposing the same thing? In what is now subsection 4 of section 1, you would eliminate the language "Each licensing authority in this State" and change it to "The Division" and leave everything else intact in that section?

**Diane J. Comeaux:**

That is correct.

**Assemblywoman Mastroluca:**

In that same section, in your notes on the amendment, it says "a fee, generally ranging from \$15 to \$25." At what point would you set the fee?

**Diane J. Comeaux:**

What we are asking for is in addition to what is already in here. We have somewhere in this bill additional language that authorizes us to charge an administrative fee to conduct child abuse and neglect screenings. We have not specified the fee in the statutory language; we would do that through the adoption of regulations, as opposed to specifying the fee in the statute. That amount will be determined based upon the fee that the other states are charging Nevada for those same services. Our intent is to try to offset the cost for Nevada when Nevada requests that information from other states.

**Assemblywoman Mastroluca:**

I understand that, but you did not give any language to show that you want to charge a fee. You just made note of it in your amendment sheet, so I do not know what that is going to look like. How are you going to phrase the language so that the fee is explained?

**Diane J. Comeaux:**

Typically we do not propose the language; we allow your Legal Division to draft language that is consistent with the other statutes.

**Assemblywoman Mastroluca:**

I understand, but you are saying that this fee is going to be based on the fees charged by the other states. I just do not understand what the language is going to look like.

**Diane J. Comeaux:**

What it will indicate is that the Division will have the authority to charge an administrative fee for the screenings, and again, the amount of the fee would be set in regulation, as opposed to in statute.

**Assemblyman Hardy:**

After the neglect screening period, we would have an additional sentence that would permit the Division to set the fees covering the costs of other agencies involved in the process. So we would need to add a sentence allowing that to be added to *Nevada Administrative Code* (NAC) or regulation, to authorize that fee, otherwise the bill does not authorize that fee?

**Diane J. Comeaux:**

That is correct; we are not authorized to assess an administrative fee for the screenings.

**Assemblyman Hardy:**

So we would need to put that kind of language in there.

**Chairwoman Pierce:**

You are proposing a fee between \$15 and \$25, with a maximum of \$25?

**Diane J. Comeaux:**

At this point, \$15 to \$25 is what other states are charging Nevada. The fee would be used to offset the costs for implementation.

**Assemblyman Hardy:**

Who is paying the fee? Is the state, through the Division, paying the fee to another state? Are we charging the fee to another state, or are we charging the fee to a person who is being screened?

**Diane J. Comeaux:**

This particular subsection is authorizing the state to work with other states to provide the information required in the Adam Walsh Child Protection and Safety Act (Adam Walsh Act) to those states. In another section, we are authorizing our workers to request that information from other states. In doing that, the other states are charging us fees. What we want is to be authorized to also charge the other states, so we can offset those costs.

**Assemblyman Hardy:**

So it is not the person who is paying the fee. It is a different state, county, or a different governmental agency who would be reimbursing us for our costs?

**Diane J. Comeaux:**

That is correct. Just as in Nevada, the state agency or public entity that makes the request from the other state pays that fee.

**Assemblywoman Mastroluca:**

In number 4 of your amendment, it says to "please remove changes" from section 3, and I understand why because we had that very long discussion about the Adam Walsh Act, but I am noticing that in section 3, subsection 1, we took out "may" and changed it to "shall." Do you still want to keep that change, and do you still want to remove section 3, subsection 2 (b), and section 3, subsection 4, of the bill?

**Diane J. Comeaux:**

That is correct, just the changes to the bill.

**Assemblywoman Mastroluca:**

"Shall" is one of the changes, so do you want to keep "shall"?

**Amber Howell, Acting Deputy Administrator, Division of Child and Family Services, Department of Health and Human Services:**

We want to keep "may." What we really want to do with this section is not have any proposed changes to this section. So keep it as "may" and delete all of the proposed language to this section.

**Assemblyman Hardy:**

I am following along the same lines. So subsection 1 and subsection 2 of section 3 of the bill would remain the same and the amendment would delete all the changes to paragraph (a) and paragraph (b) of subsection 2. Then, the amendment would delete all changes to subsection 3, and would take out subsection 4 in its entirety?

**Diane J. Comeaux:**

Correct.

**Assemblywoman Mastroluca:**

Why would you want to change it from "shall" and keep it as "may"? For what reason would you not want to do a background check?

**Amber Howell:**

The reason for drafting this bill was to be in accordance with the Adam Walsh Act requirements, and these types of placements are not a requirement of the Adam Walsh Act. They do have the name-based check already done; they just would not have to do all the requirements needed for a prospective foster or adoptive placement, per Adam Walsh Act requirements.

**Assemblywoman Mastroluca:**

I understand that, but what I am looking at in section 3 is already in statute. You are already doing that, correct?

**Amber Howell:**

Yes, we are doing the name-based checks when we are able to. There are certain times of the week, perhaps not on the weekends, when you cannot access this information.

**Assemblyman Hardy:**

The example that I would use, if I am reading this right, is that in an emergency situation, you can place a child with a person within the fifth degree of consanguinity, which would be grandma or grandpa; is that correct? It would be unlikely to have to put them through this "shall" when the reality is, in an emergency situation, you are going to go with family anyway, and so you "may" but you do not have to, if your apparent risk is very low. Is this correct?

**Amber Howell:**  
Correct.

**Chairwoman Pierce:**

Is there anyone who would like to give testimony in support of A.B. 76 as amended?

**Thomas Morton:**

I am satisfied with the bill as amended.

**Chairwoman Pierce:**

Is there anyone to testify in opposition to the bill as amended? [There was no response.] Is there anyone who would like to give neutral testimony? [There was no response.] Hearing none, I will close the hearing on A.B. 76 and I will entertain a motion on a recommendation to the full Committee.

ASSEMBLYWOMAN MASTROLUCA MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 76.

ASSEMBLYMAN HARDY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Chairwoman Pierce:**

I will open the hearing on Assembly Bill 83.

**Assembly Bill 83:** Makes various changes concerning the reporting and investigation of allegations of child abuse and neglect. (BDR 38-333)

**Diane J. Comeaux, Administrator, Division of Child and Family Services,  
Department of Health and Human Services:**

This is a Division of Child and Family Services (DCFS) bill. The original intent of this bill was to ensure compliance with the federal Child Abuse Prevention and Treatment Act (CAPTA), which was reauthorized in 2003. There were a number of changes that we had requested in this bill. You will recall at the hearing on February 16, 2009, that Mr. Morton opposed this bill, indicating that he felt this language was already in statute, and that the bill was unnecessary. The three child welfare agencies have had an opportunity to review the bill, and we have reviewed the proposed language with the Attorney General's Office. We agree with Mr. Morton that there is permissive language already in statute that will allow us to do what we need to do to be in compliance through the



adoptions of policies, which the child welfare agencies will establish. So, we agree this bill is unnecessary.

**Chairwoman Pierce:**

So you are withdrawing this bill?

**Diane J. Comeaux:**

My understanding is that there is not a technical way for us to withdraw the bill, but there is a way for you to not act on it.

**Chairwoman Pierce:**

I will close the hearing on A.B. 83, and I will entertain a motion to report back to the full Committee.

ASSEMBLYMAN HARDY MOVED THAT NO ACTION BE TAKEN ON  
ASSEMBLY BILL 83.

ASSEMBLYWOMAN MASTROLUCA SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Chairwoman Pierce:**

Then we will recommend to the full Committee that no further action be taken on this measure. Is there any public comment at this time? [There was no response.] Are there any comments from Committee members? [There was no response.] Then this meeting is adjourned [at 4:02 p.m.].

RESPECTFULLY SUBMITTED:

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Chris Kanowitz  
Committee Secretary

APPROVED BY:

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Assemblywoman Peggy Pierce, Chair

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

**EXHIBITS**

**Committee Name:** Committee on Health and Human Services

**Date:** March 5, 2009

**Time of Meeting:** 3:30 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	<b>A</b>		Agenda
	<b>B</b>		Attendance Roster
A.B. 76	<b>C</b>	Diane J. Comeaux	Proposed Amendment to Assembly Bill 76