

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-fifth Session
March 4, 2009**

The Senate Committee on Judiciary was called to order by Chair Terry Care at 8:37 a.m. on Wednesday, March 4, 2009, in Room 2149 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 in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Terry Care, Chair
Senator Valerie Wiener, Vice Chair
Senator David R. Parks
Senator Allison Copening
Senator Mike McGinness
Senator Mark E. Amodei

COMMITTEE MEMBERS ABSENT:

Senator Maurice E. Washington (Excused)

STAFF MEMBERS PRESENT:

Linda J. Eissmann, Committee Policy Analyst
Judith Anker-Nissen, Committee Secretary

OTHERS PRESENT:

Ben Graham, Administrative Office of the Courts
Diane J. Comeaux, Administrator, Division of Child and Family Services,
Department of Health and Human Services
Frances M. Doherty, District Judge, Department 12, Family Division,
Second Judicial District
Michael J. Pomi, Director, Washoe County Department of Juvenile Services;
Vice President, Nevada Association of Juvenile Justice Administrators
Michael Capello, Department of Social Services, Washoe County

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John Yacenda, Ph.D., Criminal Justice Administration Program, University of Phoenix

Scott J. Shick, Chair, Policy and Legislation Committee, Juvenile Justice Commission

Jo Lee Wickes, Chief Deputy District Attorney, Juvenile Division, Office of the District Attorney, Washoe County

William E. Fowler, Executive Director, Nevada Court Appointed Special Advocates Association, Incorporated

Teresa Lowry, Assistant District Attorney, Family Support, Juvenile and Child Welfare Divisions, Office of the District Attorney, Clark County

William O. Voy, District Judge, Department A, Family Division, Eighth Judicial District

Cynthia Dianne Steel, District Judge, Department G, Family Division, Eighth Judicial District

CHAIR CARE:

Senator Washington is absent because of weather. You will recall that he requested a Committee bill draft request (BDR) dealing with changes to NRS 119, sale of divided lands; it is Committee introduction-required. We will hold off until we find out exactly what this is.

I will open the hearing on Senate Bill (S.B.) 86.

SENATE BILL 86: Makes various changes concerning children who are ordered to be placed in the custody of an agency which provides child welfare services by the juvenile court. (BDR 5-361)

BEN GRAHAM (Administrative Office of the Courts):

The Administrative Office of the Courts and the judiciary assist in every way to see the administration gets the legislation they find necessary. There has been continuing dialogue for weeks between the judiciary as to what is required or mandated, and the needed procedures.

Technical mechanics seem to have generated opposition from members of the judiciary. Perhaps this can go to a subcommittee or at a least a work session later on.

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CHAIR CARE:

This is the second time we have had S.B. 86 scheduled. I need to remind everybody we only have 120 days. In fact, the deadline for bills to come out of the Committee of the House of origin is April 10.

MR. GRAHAM:

I do not know if there is significant opposition to what needs to be enacted to come into federal compliance. The concern is where rights and procedures are. I am not certain those are all necessary in S.B. 86 itself. Much work has gone into this and maybe some sensibility can reign after the hearing.

CHAIR CARE:

Are you the person to ask what the consequences are if the Legislature does not enact this bill, in some form, this Session?

MR. GRAHAM:

That is a question I posed to the parties. I am confident I can answer that. There is a divergence of opinion. The concern from the judiciary is that there is accord before S.B. 86 is enacted. The Legislature is not in a position to settle the argument between the parties.

CHAIR CARE:

We have a proposed amendment from the Division of Child and Family Services (DCFS). My inclination is to let people testify. Members of the Committee can ask questions any time. Senate Bill 86 may come out rewritten from what it is now. There is no sense in asking questions about specific sections.

MR. GRAHAM:

There are going to be people who say it is not needed.

DIANE J. COMEAUX (Administrator, Division of Child and Family Services,
Department of Health and Human Services):

I will read from my testimony ([Exhibit C](#)). You have a copy of our amendments ([Exhibit D](#)). Our changes are in green.

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In those instances where I have indicated, the amendments mirror federal law. The information I provided to your Staff includes copies of those federal statutes.

The Division would be happy to answer any questions the Committee may have at this time.

CHAIR CARE:

Ms. Comeaux, you make reference to external stakeholders. Who is that?

Ms. COMEAUX:

We have had a number of discussions through the Court Improvement Project with the judiciary, a number of district attorneys and our legal representation.

CHAIR CARE:

Have they had an opportunity to see the proposed amendment [Exhibit D](#)?

Ms. COMEAUX:

They have seen the proposed amendment [Exhibit D](#) in some form or another.

CHAIR CARE:

Based on what you said, you have attempted to make S.B. 86 conform to federal law. The law has its nuances, but this has not seemed like a complex task. There is opposition to what the division has come up with.

Ms. COMEAUX:

The opposition is whether or not it truly applies to this population.

CHAIR CARE:

I do not have more questions.

SENATOR WIENER:

I am looking at [Exhibit D](#), page 10, section 14, line 22 of the proposed amendment. Could you explain "constructive removal"?

Ms. COMEAUX:

The child is either physically removed or a constructive removal takes place, meaning you take custody of them, but they remain in their home. You have responsibility for their supervision.

CHAIR CARE:

What are the consequences if the Legislature does not enact this legislation in some form or another this Session?

Ms. COMEAUX:

The DCFS was found not in compliance based on a review of our Adoption and Foster Care Analysis and Reporting System (AFCARS) reporting form to the federal agency. All states have to submit them. That is their way of ensuring we are complying with the Social Security Act. We have amended the report. The population in DCFS custody is now included in the information we provide.

When the federal government comes to do the Nevada DCFS compliance review, they include this population in the cases they pull from the child and family services review.

Nevada is scheduled to have this review August 2009. They will look at some of those cases. If we are found to be in noncompliance providing the appropriate services to those children, they sanction the State \$300,000 per noncompliance item. There were a total of 23 items. They hold that in abeyance. We then have two years to develop a program improvement plan.

Our concern in not passing S.B. 86 is that the program improvement plan would be close to being over by our next Legislative Session, and we will have made no progress becoming compliant.

CHAIR CARE:

This is a provision in federal law enacted in 2006 or a regulation from 2006?

Ms. COMEAUX:

No. The audit was in 2006. The compliance review of our division was in 2006.

CHAIR CARE:

Are you aware of other states that have been sanctioned \$300,000 per item?

Ms. COMEAUX:

All states have been sanctioned this amount. No state has passed federal review. But you have an opportunity to eliminate those if you do certain things

in your program improvement plan. You must show progress you are moving forward.

I cannot tell you I know we are going to be sanctioned. I cannot tell you this is going to cause us to not show we are still making progress. There are other things that we would need to do. But in the tasks we were given, as part of the AFCARS review, getting the statute changed to come into compliance was one of the things we needed to do.

CHAIR CARE:

Regarding the application of the population, you made reference to the statutes and regulations you provided the Staff. Do you have communications, letters, anything similar from Washington, D.C. that say it does apply to this population?

Ms. COMEAUX:

In the report we received, I have the review findings where it specifically says this population is covered by the population in DCFS custody.

CHAIR CARE:

Are the external stakeholders aware of that?

Ms. COMEAUX:

Yes.

SENATOR WIENER:

I heard you say this is one of the pieces to come into compliance, but are there other things too? Are these nonstatutory measures that would also be necessary in order to avoid excessive sanctions for the State of Nevada? Could you share that with us?

Ms. COMEAUX:

I can. The division also has to adopt policies that are consistent with providing the same protection as you would a child in foster care. We are about

75 percent done in adopting those policies. Once we do that, there is significant staff training which needs to occur. We, as a division, continue to move forward. We will continue to move forward and show progress in that area.

The basic premise is we are not providing them their protections under law. That is in S.B. 86.

SENATOR WIENER:

We heard the \$300,000 figure and that no states are in compliance. I cannot remember the language that you used, but based on what you learned in the report, how egregious could it be?

Ms. COMEAUX:

This is not the only population being looked at. It is our entire child welfare population. There are 23 items they look at. The sanction is \$300,000 per item, or \$6.9 million per year.

SENATOR WIENER:

We are not in compliance with all 23?

Ms. COMEAUX:

No. We are in compliance with some of them. We have not received the review. We do not know exactly how many we will be in compliance with. Worst-case scenario, there are 23 items, and \$300,000 per item is the potential sanction which could be imposed.

SENATOR WIENER:

Over what period would this sanction be? Would it be for one year or two years that you must show progress?

Ms. COMEAUX:

It is cumulative. It starts the first year and keeps going until you come into compliance. At the end of our program improvement plan, which is a two-year process, they will tell us whether or not we have made significant progress to eliminate those sanctions. We recently finished our last program improvement

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plan. They did not impose any penalties because we had done what we had agreed to in our program improvement plan.

SENATOR WIENER:
Is this one of the 23 items?

Ms. COMEAUX:
There are a number of items related to foster care that would be included.

SENATOR WIENER:
This is an umbrella for several?

Ms. COMEAUX:
Yes.

CHAIR CARE:
Other proponents of S.B. 86 in Carson City, please come forward.

FRANCES DOHERTY (District Judge, Department 12, Family Division, Second Judicial District):
I offer my insight as to the requirements of the federal law and the review of the amended bill.

I have been involved in the juvenile delinquency court for the last 12 years, first, as a master presiding exclusively over those proceedings, and then as a district court judge. Prior to that time, my entire professional career was devoted to analyzing the applicability of federal law in relation to the requirements it imposes on states for those in need. I was a legal services attorney both in Illinois and Nevada. I bring you this information with a genuine commitment to give you insight into what S.B. 86, as amended, represents.

The Social Security Act identifies certain priorities for those in need. Title IV-E of the Social Security Act identifies the concern the federal government has

when children are taken out of their home by state action. The concern of our society is we want our children in our homes, in their grounded, rooted families. When you remove them, you must proceed with caution. You must ensure the children get home as quickly as possible.

The provisions in the amended bill reflect what the federal law requires the court and the state agency to do whenever a child is removed. Removal has a definition in and of itself. Whether a family came through the courthouse doors for child abuse and neglect, foster care or juvenile delinquency proceedings, it does not matter. They are the same children in the eyes of the statute. They are situated in the same manner and are entitled to the same rights.

Those rights are first the removal. Why are you removing this child? In delinquency, we will be determining whether or not the child has acted in a way that should result in his detention. We are also going to look at whether or not it is contrary to the child's welfare to return home. That is a good thing; it is an exceedingly good thing. The child may proceed through the juvenile delinquency system based on his offending behavior for a long time. Our intervention services will not result in that.

If the child enters our juvenile delinquency system and ends up in an out-of-home placement that is not consequential, not for offending behavior but more for therapeutic intervention, then we need to report why the child is not in their home, what are we doing to get the child back into the home, and determine whether the therapeutic intervention is effective.

The federal law requires the child in an out-of-home placement must have their case reviewed a minimum of every six months and have a plan. The plan should be in the best interest of the child.

In juvenile delinquency, our plan is to create safe and healthy citizens and to ensure they have the skills to be successful adults. We want those children not to be institutionalized children, unfamiliar with living in a home environment.

The federal statute, as S.B. 86 is amended, shares those priorities. The federal government says to us, Nevada, and every other state, you need to do this and

stop closing your eyes to the fact these are foster care children who came through a different set of doors. We are going to mandate you do it. We are not going to mandate without recognition you are following our statutory provisions with a level of earnestness and applicability which might cause you to do more work.

When those children are placed in out-of-home foster care placements or similar placements that meet the category, we are going to make sure we are reimbursing you at 50 percent of the rate not otherwise covered by Medicaid. Those are General Fund dollars we are using right now and not being reimbursed for out-of-home placements for a child on youth parole. Those federal dollars may be able to help our counties, because right now, we are applying S.B. 86 to youth-parole children.

They have these rights whether we pass S.B. 86 or not. We also might be able to apply those funds to our local probation departments down the road. We are trying to figure out how to save General Fund dollars when they are shrinking in front of our eyes. Senate Bill 86 is the bare-bones federal requirement Nevada should be applying in our courts. Every well-intended person is trying to ensure our courts are doing the right thing. That goes statewide. There is not a stakeholder who has not figured out how to do the right thing on S.B. 86.

An earlier introduction suggests otherwise. I would suggest to you the discussions are fast and furious; it changes our paradigm in delinquency court. We are layering our conversation but not altering our practice of ensuring community safety, child success and accountability. By doing that, we will be financially benefiting the State. Our advantage would be reimbursement of 75 percent from federal money for the training of these protocols. Related training is significant.

We are also benefited by administrative costs and case management costs for an array of children who might be at risk of out-of-home placements. We are

not accessing federal support because we are not affording the federal protections our children deserve.

I am merely offering you my assistance and insight to communicate how this federal law applies to us. The amendment, as written bare bones, matches the federal law.

MICHAEL J. POMI (Director, Washoe County Department of Juvenile Services; Vice President, Nevada Association of Juvenile Justice Administrators):
The Nevada Association of Juvenile Justice Administrators supports S.B. 86. As District Judge Doherty expressed, we are in a shrinking economy. It is not chasing dollars for our children but is the ability for us to do it properly, to fund children going into out-of-home placement that we do not necessarily have.

We would hope this Committee would move this legislation forward, as it is important to match federal law. We cannot break the law, and the juvenile justice departments are ready to move forward with the State of Nevada. It is a win-win situation. If we do our job right in the counties, we assist the State. We can blend and work together, as we are all going to be required to do in the economy we face.

The Juvenile Justice Administrators strongly support this Act moving forward from this Committee. I will answer any questions.

SENATOR WIENER:

Did the Juvenile Justice Administrators participate in the drafting of the amendment?

MR. POMI:

Yes, we have participated throughout the process.

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

We are the welfare foster care agency in Washoe County. We have an interest in supporting S.B. 86, as amended, because the federal government sees the foster care system as one.

Any implication for noncompliance by any part of our State or any specific population in our State could have a ripple effect on Washoe County. Our foster care system is very dependent on the federal revenues we are earning. We have

been in compliance on the child welfare side because our statutes already reflect these protections. It is important to us, as a sister agency, if the federal government determines this population will affect our overall compliance. It is important to us S.B. 86 be passed, as amended, so we will not be negatively affected moving forward.

JOHN YACENDA, Ph.D. (Criminal Justice Administration Program, University of Phoenix):

I must disclose that I am a Commissioner on the Nevada Juvenile Justice Commission but am not testifying on their behalf.

I will read from my testimony ([Exhibit E](#)).

With these concepts in mind, S.B. 86, as amended, is a good bill we need to pass.

SCOTT J. SHICK (Chair, Policy and Legislation Committee, Juvenile Justice Commission):

Senate Bill 86 has been reviewed by the Commission, and it is a reasonable response to the federal requirements. On behalf of rural administrators, whom I represent, and the Nevada Association of Juvenile Justice Administrators, the money could be freed up, available to rural jurisdictions for day reporting centers, and possibly residential group homes, a big gap in juvenile services.

Juvenile Justice Administrators across the State would be able to apply this funding appropriately to those areas representing the Juvenile Detention Reform Initiative we are all endorsing.

CHAIR CARE:

Those in Carson City opposed to S.B. 86, please come forward.

JO LEE WICKES (Chief Deputy District Attorney, Juvenile Division, Office of the District Attorney, Washoe County):

I signed up to testify in opposition to S.B. 86. The juvenile prosecutors, both in Washoe and Clark County, have been working with District Judge Doherty,

District Judge Steel and District Judge Voy to look at the different amendments proposed. We are not unmindful of what is trying to be accomplished in S.B. 86. We do have some concerns.

On behalf of juvenile prosecutors, it would be my preference to get this into a working group. We continue to work on the amendments, as District Judge Doherty alluded, which were flying fast and furious over the last ten days.

As a juvenile prosecutor, I am legally bound by Nevada statutes to look at the best interest of the State. This often translates into community safety and making sure we do everything we can to alleviate risk to the community. We are also statutorily required to look at the best interest of the child.

There are some things in the latest amendment that help address our concerns as prosecutors. I am not here in opposition to the concept, but we have work ahead of us. We are willing to do the work and to sit down with the judges and hammer this out.

In Washoe County, we have been having the six-month review hearings spoken of this morning to bring the youth-parole children in this category into compliance for their right to have their placements reviewed. We started doing them the end of last year to comply with the federal regulations.

We are getting closer to something that will address the concerns of the juvenile prosecutors. I have been studying federal regulations as fast as I can between court appearances and my normal duties. One of the questions I still have is, exactly what is an episode? Usually, foster care regulations are applied on an episode-by-episode basis. I need to understand what that means in the case of a juvenile. For instance, the juvenile is arrested for robbery with a deadly weapon, spends time in detention and then goes home for a period of time. Later, the

juvenile is rearrested or recharged with violation of probation. I am not confident the second arrest would start a new episode.

There are some things we need to clarify because we are taking a system that is designed on parental fault and laying it on top of juvenile delinquency. I want to do well, because if you do not do well, you can jeopardize your federal funding.

Part of my concern is, if the court is going to be asked, as S.B. 86 does, to make a finding that is contrary to the welfare of the child to go home, what facts are given to make the finding.

I do not think those should be empty words. What we have is the police officer's probable cause or booking sheet. That lays out the elements of the offense and why the juvenile was arrested. As a prosecutor, it does not give me information about the family where the facts say it is contrary to this juvenile's welfare to go home. I am not opposed to the concept, but we have work ahead of us. I would be happy to answer your questions.

CHAIR CARE:

Previously, we have created subcommittees of legislators to work with the interested parties, and sometimes it has worked. We know any solution is going to be one of compromise. There seems to be a legal question about the reach of federal law. I am hesitant to have members of this Committee get involved in that exercise since you already have the dialogue. My inclination is to get the testimony on the record, and people who are already speaking to one another can continue to do that.

I am recalling the testimony of Ms. Comeaux, \$300,000 times 23. That is almost \$7 million. Pick up the paper any day. It is all anybody is talking about, our shortfall. I do not want to be responsible for contributing to that.

Anybody signed in to testify against the bill, please come forward.

WILLIAM E. FOWLER (Executive Director, Nevada Court Appointed Special Advocates Association, Inc.):

Nevada Court Appointed Special Advocates (CASA) Association, Inc. does not provide direct services to abused and neglected children. The mission is to help create additional CASA programs, develop strategies that will result in the

recruitment of additional CASA volunteers, promote the CASA mission and increase collaboration between the local CASA programs.

Nevada CASA is opposed to S.B. 86 as drafted. However, I am not going to go through the rest of my written testimony because our concerns appear to have been resolved by the draft of the bill submitted by DCFS. Our concern was we would have to provide CASA volunteers for juvenile court. As demonstrated in my written testimony ([Exhibit F](#)), we do not have the CASA volunteers to serve our severely abused and neglected children throughout the State.

CHAIR CARE:

You have had a chance to look at the amendment. Any other members of the Committee have any questions?

Now we will go to Las Vegas for the opposition of S.B. 86, if you would like to come forward.

TERESA LOWRY (Assistant District Attorney, Family Support, Juvenile and Child Welfare Divisions, Office of the District Attorney, Clark County):

I was a social worker with the department that sponsored S.B. 86. For the past 18 years, I have been a prosecutor specializing in crimes against children, child welfare and juvenile delinquency.

I agree with prior speakers that well-intended, keen legal minds can differ. We do have differences despite working hard with each other on amendments to S.B. 86. One of the differences is whether or not Title IV-E of the Social Security Act, intended for abused and neglected children, applies to juvenile delinquent children. The law specifically states it does not apply to children in detention facilities, youth camps and other secure, locked juvenile delinquency placements.

The concern as a prosecutor on the juvenile delinquency caseload is juveniles detained are juveniles that have committed serious felony offenses. For example, robbery, home invasion and crimes involving guns. These youth do not

lend themselves to an abused, neglected child analysis, which comes from this federal law. Analysis for these delinquent youth is one of safety to others, safety to themselves, flight risk, community safety, community protection and victim impact. What we are doing is taking federal legislation intended for abused and neglected children and transplanting it in the delinquency chapter of the *Nevada Revised Statutes* in order to access those federal dollars for later possible foster care placement. One thing important for us to look at and be mindful of is a cost-benefit analysis.

We are talking about 1 percent of the population of children that were part of this State's federal audit. They had 6,000 children in placement, and the juvenile delinquency group comprised approximately 84 youth. These 84 youth were not a barrier to the State passing their federal audit and being in substantial compliance. That is one issue we need to be mindful of.

Additionally, it is important for the Committee to know juveniles in our delinquency system are afforded their constitutional and legal protection rights mandated under both federal and State law. This is a rather novel approach. Approximately five other states have methodically taken a look at accessing federal dollars under the abuse/neglect analysis and Title IV-E of the Social Security Act funding for juvenile delinquency placements.

Though I understand the need for judicial review and scrutiny of placements of children regardless of the system they are in, I have to maintain my concern about community safety and protection when we take a standard intended for abused and neglected children.

If we believe we have a child in the delinquency system who is the victim of abuse or neglect, we have the ability to refer that child, their family and case to the child welfare system. These same laws, rights and protections are in our statutes and allow us to access those federal funds.

I appreciate the opportunity to address our concerns and welcome the

opportunity to continue to work on this legislation in order to amend the language that will address our concerns.

CHAIR CARE:

What would passage of S.B. 86, in its current form or with the amendment that we saw this morning, do to your present workload or workload of your staff?

MS. LOWRY:

It would significantly impact our workload. Under the federal law using the guidelines in S.B. 86, the courts are required to have meaningful hearings on whether or not reasonable efforts have been provided by one of the organizations, the local juvenile justice, department of probation or the Nevada Youth Parole Bureau. The federal law has specifically said this is not something you can check a box on. You have to have regular, extended hearings and make meaningful findings.

Our courts are already working well into the night five days a week. I am familiar with our juvenile judges. They work until six o'clock and seven o'clock at night, with huge caseloads and calendars. I anticipate these extended hearings and findings will increase the number and length of hearings and the amount of time it is going to take for prosecutors to ensure these reasonable efforts have been met.

WILLIAM O. VOY (District Judge, Department A, Family Division, Eighth Judicial District):

I would like to echo the concerns raised by Ms. Lowry. I share those concerns.

The main problem that we have in Clark County has been that we have been scrambling to come up to speed on the perceived need for mandated State legislation so the State can follow federal law.

As of late last night, I have not been provided any authority, as Ms. Lowry stated a moment ago, requiring the court to make a finding at initial detention

review on a child brought in accused of a delinquent act. That is what the proposed language in S.B. 86 requires.

I received the authority last night, and it clearly delineates that this is not a removal for purposes of foster care. There is no removal. The finding does not have to be made at that time. While the child continues in delinquency-type placements, with due process, protections and supervision of the court, they do not have to come under the requirements of the foster care laws.

The question is on the back end, when the child is released. Currently this is written only for the states. There was mention there could be great benefit to the counties if you could eventually get the children eligible for Title IV-E of the Social Security Act. As currently written, it only applies to a child that I would commit to the State as a delinquent. They would go to Elko for six to eight months and then be released. The vast majority of these children go home. Some of them do not. Many of them go to placements for their mental health issues as they present a danger to themselves or others. They need to be in a more restrictive environment other than home, such as a group home or residential treatment center.

The vast majority are covered by Medicaid-reimbursed funding. However, for those small percentages of children who would not qualify and are in group home-type placements—even if it is a traditional foster care placement—Title IV-E of the Social Security Act eligibility monies could be available. If you read the law, it says that can only happen—meaning the eligibility for payment part of it—if determinations are made at the front end as contemplated in S.B. 86. If they are not, you do not get the money. It does not say you have violated the child's rights. You are still required to follow through with the periodic reviews and subsequent findings that have to be made as contemplated in S.B. 86, as set forth in the federal law. Failure to do so on the part of the

State makes them noncompliant in certain categories. We started informally attempting to bring the State in compliance in Clark County, helped by local youth parole under the existing statutes that provide for periodic reviews. That ended in November for some unknown reason.

The concept of having Title IV-E of the Social Security Act eligibility is a great concept. A handful of other states have tried it, the results of which we do not know. The ultimate benefit to the State to have this money, versus the up-front cost to do the findings needed in order for that 1 percent to be covered, has never been done. The cost to the counties and the court systems the counties have to support has never been factored in. There are myriad issues that need to be resolved before implementation.

The State can follow existing federal law and come in compliance with the AFCARS reporting system. The September 19 memorandum, which Ms. Lowry referred to, shows even though there were 84 children from youth parole out of the 6,031 children reviewed, they still were in substantial compliance.

We would like to see this issue brought to a comprehensive committee made up of all of the stakeholders, have all these issues vetted and the studies done. If implementation of S.B. 86 is in the State's best interest and is needed to further additional rights of the individual children we are otherwise missing, then we can implement that. We do not need to have State law to implement this. We can come into compliance, meaning the State youth parole, juvenile justice at the county level, prosecutors, and the courts.

I suggest the matter be referred to a standing committee. Let us work this out, come up with a comprehensive plan to implement this if it is appropriate in the way we would normally do. At this point, many issues have been raised that are

still unanswered. To recommend this law, having issues not answered, would be irresponsible for me as a judge.

CHAIR CARE:

I note there is no fiscal note, no impact on local or State government. I do not know if the amendment changes that.

District Judge Voy, this is not necessarily headed to a standing committee but an informal committee.

If everybody is on board and we can do this absent State legislation, this Committee would need to know that well in advance of April 10. That is our deadline to get a bill out of this Committee.

CYNTHIA DIANNE STEEL (District Judge, Department G, Family Division, Eighth Judicial District):

I have looked at S.B. 86 extensively, and I look at it through the eyes of a dependency court judge, which I do not think we have had on record yet today.

I am concerned there are items in S.B. 86 that are confusing as to how it will be implemented. Implementation is very important. I know it is something that can be done after the fact. While we are implementing it, there are people suffering because the left hand does not know what the right hand is doing. The children are going to suffer in the system.

I am concerned about the fiscal note. I do not know if it has been vetted yet with all of the agencies that might have a stake hold. I want to make sure we are not doing something in haste that we could cure by taking a deep breath, working better together, looking at what we need to have in S.B. 86 and making sure the wording is comfortable for everyone.

That is why I am here. That is why I am involved, even though it is not a dependency court issue. The issues could bleed into the dependency court. Several youth in juvenile delinquency may be found to have some issue that would cause them to be removed from their home; because it would not be safe for them to return, it would be in their best interest. We may find more of those if we make these findings. That is fine. I am okay with that.

I would like to know what kind of an increased caseload there will be. I want to be able to make the budget request I will need to make from my side of the bench. I want to be clearer on some of the issues.

I am uncertain about the due process rights for parents. These are things I believe as a committee, if we work together, we can either put in S.B. 86, discover we do not need them, or we can make whatever amendments we need to make it work. I know what the goal is. Everyone at the table knows what the goal is. I know we want to do what is best for our children, for our State, and for our community. I do not think there is anyone here that has an ax to grind to stop someone from getting what they need.

I would like to be part of the solution in this, and I remain your servant in that regard.

CHAIR CARE:

I do not see anyone else signed in to testify on behalf of S.B. 86. We will close S.B. 86, but with a few comments.

Senator Wiener has a strong interest in juvenile justice. She has been instrumental in legislation in past sessions and has volunteered to be the point from this Committee. Let me explain what I mean by that. We are not going to create a subcommittee that includes legislators. Stakeholders are obviously talking with the division and that needs to continue. We need to know if there is a consensus about whether we need State law sometime by April 1. If we do need State law, we are going to have to address the issue, because April 10 is the last day to pass a bill out of the Committee.

I would ask you all continue your discussions. Only your progress reports should go to Senator Wiener. When I say progress reports, I do not mean I want the he/she said, he is right and she is wrong. Somebody who can represent this loose committee to keep Senator Wiener apprised of where you are so I will know. Then we will know what to do in the future with S.B. 86. Any comments from Senator Wiener or anyone?

We will close the hearing on S B. 86.

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The Committee bill introduction requirement that I referenced earlier is also NRS 119. However, this is from the real property section of the State Bar of Nevada, which was brought before this Committee at its request.

SENATOR WIENER MOVED TO INITIATE A BILL DRAFT REQUEST UNDER NRS 119, THE REAL PROPERTY SECTION.

SENATOR AMODEI SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CARE:
This Committee is adjourned at 9:42 a.m.

RESPECTFULLY SUBMITTED:

Judith Anker-Nissen,
Committee Secretary

APPROVED BY:

Senator Terry Care, Chair

DATE: _____