

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

**Seventy-Sixth Session
March 2, 2011**

The Committee on Health and Human Services was called to order by Chair April Mastroluca at 1:32 p.m. on Wednesday, March 2, 2011, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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/76th2011/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; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman April Mastroluca, Chair
Assemblywoman Peggy Pierce, Vice Chair
Assemblyman Elliot T. Anderson
Assemblywoman Teresa Benitez-Thompson
Assemblyman Steven Brooks
Assemblyman Richard Carrillo
Assemblywoman Lucy Flores
Assemblyman Jason Frierson
Assemblyman Pete Goicoechea
Assemblyman John Hambrick
Assemblyman Scott Hammond
Assemblyman Pete Livermore
Assemblyman Mark Sherwood
Assemblywoman Debbie Smith

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman John Ocegüera, Clark County Assembly District No. 16

STAFF MEMBERS PRESENT:

Allison Combs, Committee Policy Analyst
Kirsten Coulombe, Committee Policy Analyst
Risa Lang, Committee Counsel
Mitzi Nelson, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Amber Howell, Deputy Administrator, Bureau of Services for Child Care,
Division of Child and Family Services, Department of Health and
Human Services
Kevin Schiller, Director, Department of Social Services, Washoe County
Elizabeth Muto, Private Citizen, Las Vegas
Alex Ortiz, representing Clark County
Chuck Callaway, Police Director, Office of Intergovernmental Services,
Las Vegas Metropolitan Police Department
Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs'
Association
Orrin J. H. Johnson, Deputy Public Defender, Washoe County Public
Defender
Victor-Hugo Schulze III, Children's Advocate, Office of Advocate for
Missing or Exploited Children, Office of the Attorney General
Stephanie Parker, Executive Director, Nevada Child Seekers
Michelle Gorelow, M.A.Ed., Director of Program Services, March of Dimes
Nevada Chapter
Brian McAnallen, representing the March of Dimes Nevada Chapter
Foundation
Amber Joiner, Director of Governmental Relations, Nevada State Medical
Association
Lea Tauchen, Director of Government Affairs, Grocery and General
Merchandise, Retail Association of Nevada

Chair Mastroluca:

[Roll was called.] This afternoon we have two bills on the agenda,
Assembly Bill 148 and Assembly Bill 170. I will now turn the meeting over to
Vice Chair Pierce. [Assemblywoman Pierce assumed the Chair.]

Vice Chair Pierce:

Assemblywoman Mastroluca is going to present A.B. 148.

Assembly Bill 148: Revises provisions governing the voluntary relinquishment of an infant to a provider of emergency services. (BDR 38-589)

Assemblywoman April Mastroluca, Clark County Assembly District No. 29:

I would like to introduce A.B. 148, which makes some needed adjustments to the safe haven law, which has been in existence for ten years. This law was unanimously passed in 2001 by both houses of the Nevada Legislature. The law allows parents with newborns under 30 days old, who feel they are unable to care for their infant, to leave the child at a police station, fire station, or hospital without consequence, provided the child is unharmed. Forty-nine states and the Commonwealth of Puerto Rico have adopted safe haven laws within the past ten years. We have looked at our law to see what needs to be added to bring it in line with other laws from across the country.

To give you a little more background, I would like to share with you some examples that made this law necessary in Nevada. In December 1999, a 23-year-old airman stationed at Nellis Air Force Base, Candice Kitto, gave birth to a newborn daughter, smothered the baby, and hid her in a closet. She later pled guilty, was charged with second degree murder, and was sentenced to 25 years in prison. In January of 1994, three teenagers in Winnemucca took a two-hour-old baby boy out into the desert, drove over his head twice with a car, and buried him in a shallow grave along Interstate 80. Two of those teens were honor students at their high school. Those three teenagers hid the pregnancy and murder for two years before they eventually confessed to the crime. In August of 2000, a 15-year-old Henderson girl drowned her newborn son in the toilet because she did not want her parents to find out that she had gotten pregnant. These examples graphically illustrate the importance of a safe haven law. It allows women to save an innocent life while saving their own life in the process.

This bill would accomplish two goals. First, it would notify law enforcement agencies of the abandonment, so that they can investigate whether the child has been reported as a missing child. Last year, a baby was left at a fire station by a male. Our law specifically states that anyone can bring a child in for protection; it does not specify that it has to be a mother or father. In this particular case, there were questions as to whether or not that person had legal custody of the child. There are provisions currently in the law to protect the person relinquishing the child. This bill would add language to also make it very clear that law enforcement must make sure that a missing person report has not been filed; that no one is looking for the child.

Additionally, a proposed amendment ([Exhibit C](#)) asks for the ability to document these types of cases. Since there was never a stipulation for tracking safe haven cases when the bill was enacted ten years ago, we cannot tell you how many children have been saved by this legislation. It was reported in April 2010 that a child taken to a fire station in southern Nevada was the first baby ever legally abandoned under the safe haven law in Nevada. I can tell you with confidence that is not true. I personally am aware of three children who have previously been abandoned under the law. A witness in Las Vegas will come forward momentarily to tell you her experience of being abandoned as an infant in Nevada before the law took effect. She also has experience with a family that adopted a child abandoned under the law. I have spoken with numerous law enforcement personnel and firefighters who have shared stories about infants that have been brought to them. We know the law is working to some extent, but we cannot say definitively how well it works. The amendment would give Nevada the opportunity to track these statistics within our system so that we would know, not only how many babies were killed that could have been saved by this law, but also how many babies were turned in safely.

Vice Chair Pierce:

Are there any questions for Assemblywoman Mastroluca?

Assemblyman Hammond:

Will the bill only address the need to find out if there is a missing child report that matches the abandoned child? Will we only investigate if the child has been reported missing? I believe this has already happened once or twice in the United States. A child was abandoned at a fire station and, after the child was placed with an adoptive couple, it was later discovered the child had been abducted. Is that correct?

Assemblywoman Mastroluca:

That is correct. That is exactly the purpose of this bill.

Vice Chair Pierce:

Are there any other questions?

Assemblyman Goicoechea:

The language used in section 1, subsection 2, paragraph (c), which reads, "As soon as reasonably practicable but not later than 24 hours," concerns me. If the child is a missing person, it would make sense to keep that time frame as tight as possible. Twenty-four hours is a long time, if you are looking for your child. Could the verbiage be changed to state that a call to determine whether the child has been reported missing should be made immediately?

Assemblywoman Mastroluca:

That concern has been previously raised. The 24-hour limit has existed in the law since it was enacted in 2001. I believe personnel from the Department of Health and Human Services (DHHS) might be able to address that better than I can. To my knowledge, this time frame has not been an issue. I do not believe anyone has waited 23 hours to contact law enforcement. Honestly, most of these groups are not prepared to deal with an infant. They generally are not going to hold onto the child any longer than necessary. There is usually a desire to make sure the child has immediate medical care. Some of these abandoned infants are literally newborns with the umbilical cord still attached. I am open to discussing this concern, but I do not believe the 24-hour time frame has ever been an issue.

Vice Chair Pierce:

Are there any other questions for Assemblywoman Mastroluca? [None were heard.]

Assemblywoman Mastroluca:

I would now like to bring Assemblyman Ocegüera up to provide testimony.

Assemblyman John Ocegüera, Clark County Assembly District No. 16:

I am here to support A.B. 148. I was a member of the Assembly when this bill was unanimously passed by the 71st Legislative Session in 2001. The goal was to protect the child while releasing liability from those abandoning the child at a safe haven site. The existing law does not allow a way to track the success of the program. Like Chair Mastroluca, I was amazed to read a recent article in the newspaper that reported the first safe haven child had been delivered to a fire station. I can tell you as the Assistant Fire Chief in North Las Vegas, I have personally handled three of these calls in the last ten years. During that time, I have been promoted from Captain to Battalion Chief to Assistant Chief. However, there may have been additional children abandoned during that time period. As a fire captain, I would not be informed of children who were abandoned at another fire station. As a battalion chief, I would not know it had happened in another platoon. In my current position, I do know when it happens.

Tracking makes a lot of sense. Perhaps there is a certain area of town that needs additional resources because babies are abandoned more frequently there. This bill makes a lot of sense to me. I wanted to state my full support of the bill and give you the real-life testimony that there is currently no tracking of the safe haven law.

Additionally, the law states that the child would be “not more than 30 days old.” These are infant children. Although our paramedics and first responders are very good at their jobs, when someone drops off a baby who is less than 30 days old, they are immediately taken to the hospital. We do not know what to do with a 30-day-old baby.

Vice Chair Pierce:

Are there any questions for Speaker Ocegüera?

Assemblyman Hambrick:

I appreciate your background and your testimony that a child who is less than 30 days old would be immediately taken to the hospital. However, I dare say there is not a man in this room who can tell the difference between a four-week-old baby and a six-week-old baby. A pediatrician could guess the age from coordination and eye movement. Is thirty days a generic term? Why was 30 days chosen as the cut-off?

Assemblywoman Mastroluca:

The drafters of the original bill looked at other states; about 14 states at that time had passed safe haven laws. The age limit started at about 10 days; 30 days is actually generous. If you want to get really generous, you can look at the now-repealed Nebraska law that did not state any age limit; people were dropping off their teens. I feel confident that the provider would know if someone attempted to drop off a five-year-old. However, while it is difficult to know an infant’s age for sure, the intent is protection. The purpose of the law is to prevent prosecution of the parent or legal caregiver, when a child is abandoned safely. If someone dropped off a two-year-old, the law would not apply. While I am not an attorney, I would imagine a significantly older child who was abandoned would be investigated and other charges would apply. It is subjective, but from my research into this subject, it appears that the majority of children abandoned under this law are under five days old.

Vice Chair Pierce:

Are there any other questions? [None were heard.]

Assemblywoman Mastroluca:

Mr. Schiller, Ms. Howell, and the witness in Las Vegas will now present their testimony.

Amber Howell, Deputy Administrator, Bureau of Services for Child Care, Division of Child and Family Services, Department of Health and Human Services:

I wanted to express support for A.B. 148. The DHHS currently has a computer database that stores all allegations of child abuse and neglect. While this would not be a child abuse and neglect allegation, we could create a subcategory to store and track information on safe haven abandonment. We could provide an annual report to the Legislature, if that would be helpful.

Vice Chair Pierce:

Are there any questions for Ms. Howell? [None were heard.]

Kevin Schiller, Director, Department of Social Services, Washoe County:

I would like to voice our support for the bill and reinforce the fact that diversion and prevention are among the goals in dealing with cases of abuse and neglect. This bill supports the mother or father to come forward and prevents severe trauma or potential injury to the child. In addition, communication between law enforcement, child welfare, and other entities is always difficult. We strongly support this aspect of the bill, which will allow better tracking of the system and the ability to make changes to the program, if needed.

Vice Chair Pierce:

We will now hear testimony from Las Vegas.

Elizabeth Muto, Private Citizen, Las Vegas:

I am here in support of A.B. 148 because I believe it is important that we require our emergency service providers to notify law enforcement agencies when a child is abandoned to ensure that the child has not been reported missing. It is imperative that we implement some sort of tracking system for these children to give them identities and track their outcomes. This bill has been in place for ten years, and while I am pretty well connected with child abandonment issues, I was unable to find any available data on the subject. It is important to track these children, not to make them statistics, but to give them names. I can tell you the story of one baby that was abandoned in a restroom at the Washoe Medical Center in Reno. He was wrapped in a paper towel that had the words "safe haven" written on it. His name is Taylor and he was abandoned in 2004. He is autistic and is in first grade. He dominated at the Special Olympics, now lives in California, and is doing well. He is my godson.

I was notified when Taylor was found, because I was also abandoned. I was left at the Reno Cannon International Airport in 1980. Taylor and I joke that someday we will say to each other, "Remember that time you were left at the

airport? You were left at the hospital.” It is an unfortunate thing to have in common, but we are both really lucky that we found loving homes. There may be a lot of deliberation about the age of the infant with the safe haven law—should it be 10 days or 30 days? The truth is, I do not know how old I was when I was abandoned. I was told I was 10 days old, give or take a few. I was abandoned on January 17, 1980 and everything I know about my abandonment, I have read in the newspapers. The only reason I was privy to a lot of that information is because I was crowned Miss Nevada in 2004. People came out of the woodwork at that time; my original social worker and nurses on my case found me. They gave me so much more information than I was ever given and more than my parents were ever afforded, as well. That is when I found out that a woman took me to different locations at the airport and waited around to see what would happen. Eventually, she took me to the Delta Airlines ticketing counter where two pilots found me. This earned me the nickname “Delta Dawn,” which I have been told was a popular song in the 1980s.

The safe haven law had not been passed when I was abandoned. I cannot express how proud I am to be from a state that now protects babies up to 30 days old. There are states that have 72-hour windows. Had I been abandoned under that law, I do not know where I would have been taken. I think I would be remiss if I were not here today advocating for this law to be as comprehensive as possible, not only to respect the rights of the biological parents, but also to ensure the safety of these children. I know that a lot of abandoned babies are found deceased. I think it is my responsibility to give these children a voice and to advocate on their behalf, because I was blessed to be given the right to live.

I think we need to do more in the way of outreach on this issue. The safe haven information needs to be made more available to community members and to the population that is affected by safe child abandonment. Although we have made great strides, I personally do not think enough has been done. We need to make the information more commonplace so that young parents know that, if they are facing an unwanted pregnancy, there are alternatives. Hopefully, we will no longer have to hear about babies who have been run over or found in a dumpster. Instead, we can read success stories thirty years later, when these children have grown up to be productive citizens in our communities.

We need current statistics to know if the law is working. We need to keep track of these children, because they have earned that right. While I do not encourage child abandonment, I absolutely, whole-heartedly support the objectives of the safe haven law. In conclusion, I sincerely hope we can make

this law as comprehensive as possible in order to protect the rights of the parents as well as the safety of the child.

Vice Chair Pierce:

Your testimony is very moving. Thank you for being here with us today. Are there any questions? [There was no response.] I will now call Alex Ortiz to the table.

Alex Ortiz, representing Clark County:

I would like to state our support of A.B. 148. We think it is very important that the Committee supports the bill as well. Even though we only know of a couple of instances of safe haven abandonment in Clark County, there have probably been many more of which we are not aware.

Vice Chair Pierce:

Are there any questions?

Assemblyman Hambrick:

Is there a defined description of a "provider of emergency services?" Do we know exactly what that means?

Alex Ortiz:

I believe the actual bill stipulates the definition of an emergency support agency.

Assemblyman Hambrick:

Could an emergency support agency be a private ambulance service or other provider that has emergency medical technicians? It would not necessarily have to be a governmental organization. It could be a volunteer or private ambulance service, depending on the area of the state. Would these types of emergency service providers be included under the law?

Assemblywoman Mastroluca:

The original bill lists a "provider of emergency services" as a hospital, obstetric center, independent center for emergency medical care, a public fire-fighting agency, or law enforcement agency. I believe Nevada is the only state that still allows a person to call 911 and have an ambulance displaying no lights or sirens come to pick up the child. To my knowledge, that provision has never been used, but it is available.

Vice Chair Pierce:

That definition is found on page 3, lines 28 through 31.

**Chuck Callaway, Police Director, Office of Intergovernmental Services,
Las Vegas Metropolitan Police Department:**

We, along with the Nevada Sheriffs' and Chiefs' Association, would like to express our support of this bill. In fiscal year (FY) 2010, the Las Vegas Metropolitan Police Department responded to 2,918 calls of missing and runaway children and 930 calls of endangered children. We feel this bill is very important and we support it.

Vice Chair Pierce:

Are there any questions? [There was no response.] Will Frank Adams come forward?

Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs' Association:

We take missing children very seriously throughout the state. I do have some experience with creating the Nevada Clearinghouse for Missing and Exploited Children. We are in support of A.B. 148.

Vice Chair Pierce:

Are there any questions? [There was no response.] I do not have anyone who has signed in as in opposition to the bill. I do have one person, Mr. Johnson, who wanted to speak as neutral.

Orrin J. H. Johnson, Deputy Public Defender, Washoe County Public Defender:

We do not have any objection to the bill. We wanted to make sure the purpose of the bill retains the original intent of the law to prevent prosecution. We are worried that someone might misread the bill and believe they will now be investigated when they drop off a child for abandonment. We do not want to disincentivize people from dropping off babies and do something awful, which is not the intent of the bill. We are happy now that the purpose, as stated by Assemblywoman Mastroluca, is clear and on the record. I felt it was more appropriate to sign in as neutral because of that concern.

Vice Chair Pierce:

Are there any questions? [There was no response.] There are two people in Las Vegas who signed in as neutral and wish to speak.

**Victor-Hugo Schulze III, Children's Advocate, Office of Advocate for Missing or
Exploited Children, Office of the Attorney General:**

I serve as the Director of the missing children's clearinghouse and I am here to offer assistance to you in your work on A.B. 148 and its changes to the safe haven law. The bill involves overlap between two important areas of child protection: offering safe haven for unwanted babies and accounting for and recovering missing children. In our unit in the Office of the Attorney General,

we work with local and out-of-state police agencies, as well as agencies such as the U.S. Department of Justice, the National Center for Missing and Exploited Children (NCMEC), and U.S. Immigration and Customs Enforcement to locate and recover children who have been abducted or kidnapped. In cases of international abductions, we often work with the U.S. Department of State and foreign police agencies.

I do what I do because I believe our children are our most valuable resource. Missing children fall into several forensic categories: runaway children, throw-away children, stranger abductions and kidnappings, and nonstranger abductions. This latter category can include parental abduction, online enticement cases, and abductions perpetrated by more distant family members or associates. Investigation of a missing child is a specialized area and typically is a complex, labor-intensive undertaking. These cases can range from a noncustodial parental overstay of visitation, with little risk to the child's welfare, to extreme cases of stranger kidnappings that end in murder-suicides. Some abducted children are gone from home for just a few days, while others are gone for ten years or more. In some violent cases, the children never return home. All of you have heard some of these names: Elizabeth Smart, Amber Hagerman—for whom the Amber alert system was named—Jacob Wetterling, Samantha Runnion, and countless others.

Assembly Bill 148 requires that a child dropped off under the safe haven law be investigated to learn if he or she is an abducted child. I think this is a good idea. We were originally concerned about whether our department could become involved in these investigations using the existing, limited resources of our small unit. Because we have now become informed that the statewide estimate is approximately ten cases annually, we believe that these additional duties are absorbable into the Office of the Attorney General utilizing our existing resources. However, please keep in mind that these investigations will be hampered by not having the ability to ask questions about the child's identity or geographical information.

There is a point of tension with the safe haven law that has to be considered. While the law promises the parent will not be investigated, if the child turns out to be a missing person, an investigation will be done. Many of these babies are born to young mothers at home or in a bathroom somewhere. There is no identifying information, birth certificate, or medical records available. The babies may have not even been born in Nevada. In some of the cases, the young mothers do not even know that they are pregnant until very late in the process. Many of them have not received proper prenatal care. Some of the babies will be malnourished, born addicted to a narcotic substance, or suffer

from fetal alcohol syndrome. In short, these are high-risk babies that need a range of immediate interventional services.

I offer for your consideration, amendatory language that maintains the same substance of the bill's original language, but that fully reflects the real-world investigative relationships that exist among the various investigative agencies involved in these cases ([Exhibit D](#)). The Clearinghouse definitely needs to be involved in these cases, but it serves as a secondary investigative agency after the front-line police agency has taken the initial report. I presume that the bill's intent is to report the child's abandonment to a police agency. Currently, the bill calls for a report to be made, but it does not specify to whom that report must be made. I presume that you are not including nongovernmental, nonprofit agencies.

The bill, as currently drafted, does not reflect the investigative realities where the initial police agency is going to partner specifically with nonprofit agencies such as Nevada Child Seekers, the Clearinghouse, and the NCMEC. It states, "The law enforcement agency shall investigate through the Clearinghouse" I do not know what that language means and so we have provided suggested amendatory language to better reflect the existing realities when we partner with those agencies. With these comments, I am happy to assist you in any way I can and answer any questions.

Vice Chair Pierce:

Are there any questions?

Assemblywoman Benitez-Thompson:

It seems to me that a newborn that truly goes missing would be a pretty big deal. Can you tell me how often newborn infants go missing and are not reported to your agency?

Victor-Hugo Schulze III:

When we initially learned of the bill, we asked some members of the Assembly how many children we expected to be dealing with. As the witness who proceeded me in Las Vegas testified and as the proposed bill reflects, no statistics have been kept. No one knows the actual number of children involved in the safe haven program. The rough estimate from the NCMEC indicates that at any single time, 8,000 Nevada children are missing from their homes. The majority of those are runaway children. Our current caseload reflects about 110 criminal prosecutions. That number would be doubled if you include civil and other agency assists. I cannot give you a breakdown on the ages of the children involved. Typically, a police agency is going to first check for a missing child report in its own county or agency. One benefit of this bill is that these

children are a maximum of 30 days old. That helps the police agency, because if a report has been made, it will be a recent one. However, there is no guarantee that the child was born in Clark County or even in Nevada. If the child was born in a small town in Colorado or elsewhere, the child might not have been entered into the National Crime Information Center (NCIC) database for missing children. Since we are not allowed under the safe haven law to ask anyone for information, we are going to have a lot of cases where we do not know where the baby came from. I would guess that, in at least one-half of the cases, the police are not going to be able to find out where the child came from, even if they are local children. This is due to the inherent tension created by requiring that we investigate the child to determine if he has been reported missing while maintaining the initial promise that no questions would be asked and no investigation would be made.

Assemblywoman Benitez-Thompson:

It has been stated that, although we do not have official records and statistics, there has been a handful of newborns who have been abandoned in the course of the past ten years. Similarly, we are only looking at a handful of newborns that go missing, and those newborns that get kidnapped tend to get a lot of attention very quickly. If an Amber Alert is issued for a missing infant and a willfully abandoned newborn pops up in Reno, it seems likely that we would be able to reconcile that situation without a whole lot of data and research.

Victor-Hugo Schulze III:

I think it depends on the facts of the case, because these cases vary drastically from one to another. The easiest case would be the situation where the parent drops off the infant for abandonment; of course in this case, there would be no report of a missing child. We are not going to get any results in that case, because there were no results to be had. This scenario may seem to leave everyone hanging, but that is the desired result under the safe haven law. The most extreme case would be a scenario where a child is kidnapped out of a hospital maternity ward. This type of incident would be reported in every newspaper in the country. No matter where the kidnapping is initially reported, it would be able to be traced.

The trickiest case would be one where a family member, such as a grandparent, an uncle, an aunt, or a sister, decides that the young mother is unfit and take it upon themselves to deliver the child to a fire station, with or without the consent of the mother. In a case like that, where a family member drops the baby off, the young mother may or may not have the personal wherewithal to file a missing persons report, even if she is against having the baby taken from her. Technically speaking, even if she does not report the situation, it would be classified as an abduction that could be investigated.

This is the type of fact scenario where tension arises between the need to find out if the baby has been abducted—which I think is a very positive aspect of the bill—that conflicts with the covenant in the bill that we will not investigate the person who dropped the baby off for abandonment. What will happen if the person dropping the baby off is in fact an abductor or kidnapper? That scenario is a grey area and I do not know the answer to that situation. I guess it will depend to some extent on whether the mother or father of the child is interested in prosecution. Am I addressing your concerns directly?

Assemblywoman Benitez-Thompson:

I was just trying to gauge the size of the issue. It appears that it is an issue with the safe haven law overall and this new legislation is getting us a step closer by making a sincere effort to see if the child has been reported as missing or has been abducted. That would seem to be in step with your organization's mission.

Victor-Hugo Schulze III:

It is indeed. The philosophy of this bill is directly in line with our department's function. Our concerns were only with the number of parents that would take advantage of this program, because it was never tracked. We will have to see where the numbers are and perhaps revisit the issue down the road. We are in support of the bill to reunite any missing children that come up in the system illegally, regardless of the numbers, along with the police agencies who testified.

Vice Chair Pierce:

Mr. Frierson has a question.

Assemblyman Frierson:

I wanted to take a moment to thank Mr. Schulze for his work, not only on this bill, but for proactively trying to help. At times throughout my legal career, he has been the sole person I knew to call when it came to missing children. I have actually witnessed the process of bringing some of these children home. It is inspiring and I wanted to thank Mr. Schulze. He also happens to be the person who initially trained me as a litigator and has been tirelessly involved in this endeavor for many years. I would like to thank him, on the record, for his service and work.

Assemblyman Hammond:

I think you were testifying as neutral? Is that correct?

Victor-Hugo Schulze III:

No sir, we are in support of the bill. I checked the wrong box, I apologize.

Assemblyman Hammond:

You raised a number of concerns during your testimony. Although you are supportive of the bill, are you concerned that the rights of the parents who are abandoning the child might be later violated? Is your organization concerned that they might hesitate to give the child up because there might be an investigation to find out their identity?

Victor-Hugo Schulze III:

I do not want to leave any false impressions. I do not oppose the bill. I think that all missing children have a right to be returned home. Perhaps I am playing the heavy in the hearing here today, but my comments are directed to the investigative and policy realities in the area of overlap between missing children and the safe haven law. I would hate to see a case involving a missing child, that could have been discovered fairly quickly utilizing the proposed law, turn into one where the abandoning parent's parental rights were terminated, the child was placed with adoptive parents, and then the parents of the abducted child appear and the problem must be corrected after the fact. This bill will solve that problem to the extent that these investigations are successful. That is the strong part of this bill, the part of the bill we support.

However, there is a little bit of tension, which may always be unavoidable in cases of child protective legislation, between one part of the law stating we will not investigate the abandoning parent and the other part of the law stating that we will investigate if the child has been reported as missing. I will point out that the tension is small because the only time those two issues will overlap is when the abductor drops the child off for safe haven. Keep in mind the existing law refers to a parent dropping off the child. There are other scenarios where the abductor may want to drop the baby off quickly, such as the case where a kidnapper or abductor sees an Amber Alert or the press coverage is getting too heavy. In another scenario, perhaps a joy rider unknowingly steals a car that contains a child in the back seat. The charges for kidnapping are a lot heavier than the charges for joy riding. I do not know what happens if a kidnapper drops the baby off. I do not think the safe haven law applies to abductors; it applies to parents only.

Vice Chair Pierce:

Mr. Livermore has a question.

Assemblyman Livermore:

You raise a lot of interesting points. I am concerned about parents who drop off the child and then change their mind and ask to have the child returned to them. What kind of investigation would that scenario provoke?

Assemblywoman Mastroluca:

The law specifically states that the parent has the opportunity to return within 60 days and petition the court to reinstate their parental rights. The child would not be placed immediately with adoptive parents. Similarly, if there was a case involving an abduction, and the parent did not have the wherewithal or medical capability to report their child missing, that parent would also have the opportunity to petition the court for the rights to that child within 60 days.

Assemblyman Livermore:

What happens if a mother abandons a child because they are nervous about an unexpected pregnancy, but later becomes more comfortable due to family support or another reason, and wants the child back? Could they eventually or potentially lose their parental rights?

Assemblywoman Mastroluca:

That would be completely up to Child Welfare Services. However, based upon how the statute is currently written, charges would not be filed if no harm had been done to the child.

Vice Chair Pierce:

I do not see any more questions at this moment. Ms. Parker, would you like to begin?

Stephanie Parker, Executive Director, Nevada Child Seekers:

My intent was to sign in as in support of this bill. I applaud everyone who is here today to address and show interest in supporting missing children's issues. The mission of Nevada Child Seekers is to advocate for and engage in prevention, identification, and location efforts on behalf of missing and exploited children. This bill obviously addresses this goal. I would like to concur with Mr. Schulze's comments.

Vice Chair Pierce:

Are there any other questions or comments? [There was no response.] We will close the hearing on A.B. 148. [Assemblywoman Mastroluca reassumed the Chair.]

Chair Mastroluca:

We will now open the hearing on Assembly Bill 170, which establishes provisions relating to warnings about health hazards of smoking during pregnancy. This bill will be presented by Assemblywoman Pierce.

Assembly Bill 170: Establishes provisions relating to warnings about the health hazards of smoking during pregnancy. (BDR 40-884)

Assemblywoman Peggy Pierce, Clark County Assembly District No. 3:

I will briefly review A. B. 170 and then turn the discussion over to representatives from the March of Dimes, who worked very hard during the interim to bring a bill forward that has wide agreement. Assembly Bill 170 would require that a warning sign be placed in retail establishments where cigarettes and other tobacco products are sold, to alert women that smoking during pregnancy can cause birth defects, premature birth, and low birth weight. The bill describes the dimensions of the sign and the font size that must be used. Warnings already exist on the side of cigarette packages and bills have been passed requiring signage to alert women about the negative effects of drinking alcoholic beverages during pregnancy. This bill further ensures that people understand the health consequences associated with smoking while pregnant.

I am old enough to remember when it was discovered in the early 1960s that smoking tobacco poses health risks. I have looked at the statistics and have been around long enough to know that the warning on the side of cigarette packages has been very effective over the last 40 years. In the early 1960s more than 50 percent of Americans smoked. That number has now fallen to about 20 percent. We know that this type of public education works and has a tremendous effect on public health. I believe this is important legislation that will educate the public that, in addition to the negative effects that tobacco has on health in general, there are additional negative effects for women who smoke during pregnancy. I will now turn the discussion over to representatives from the March of Dimes.

Michelle Gorelow, M.A.Ed., Director of Program Services, March of Dimes:

I would like to take a moment to thank Assemblywoman Pierce for sponsoring this bill. The mission of the March of Dimes is to improve the health of babies by preventing birth defects, premature birth, and infant mortality. [Submitted prepared testimony ([Exhibit E](#)).] Full term pregnancy is 40 weeks. Many people think in terms of 9-month gestation, which would multiply out to 36 weeks, but full-term pregnancy is actually 40 weeks. The definition of preterm birth is any baby born prior to 37 weeks. Preterm birth is the leading cause of death in the first month of life for a newborn. Babies who are born preterm also have an

increased incidence of lifelong disabilities such as mental retardation, cerebral palsy, learning disabilities, and behavioral problems. The average hospital cost for a preterm newborn is 11 times higher than a newborn without complications: approximately \$49,000 versus \$4,500 ([Exhibit F](#)).

In an average week in Nevada, 113 babies are born preterm, which translates to about 13.8 percent, or one in seven babies. When compared to other state statistics on incidence of preterm birth, Nevada ranks 44th. In November 2010, the March of Dimes released a premature birth report card ([Exhibit G](#)), which compared each state's rate of premature birth to the nation's 2010 objective of 7.6 percent. Nevada received an "F." There are three factors that contributed to this low grade. One of these factors was the number of women between the ages of 18 and 44 who smoke. In 2009, the percentage of women in this age group in Nevada who smoked was 19.2 percent. In 2010, this percentage increased to 21.9 percent.

Women who smoke during or prior to pregnancy are twice as likely to experience a preterm birth as woman who do not smoke. We believe that this signage will help educate women to the dangers of smoking before they purchase a package of cigarettes. The existing warnings on the packs are printed in a very small font, size 4, and women can only see the warning after they purchase the package of cigarettes. We want to warn them before they commit to smoking that pack of cigarettes. This requirement is implemented in other states; Pennsylvania, Indiana, and Texas all have this legislation on their books. I have heard that Illinois also has passed the law; however, I have been unable to verify their bill language. Texas additionally has a program called the Pregnancy Risk Assessment Monitoring System (PRAMS). This program consists of a telephone survey of questions provided by the Centers for Disease Control and Prevention (CDC) regarding attitudes and behaviors during pregnancy. Texas was the only state that had a program like PRAMS in place prior to passing their legislation on a tobacco point-of-sale warning card. Because of this program, they were able to statistically establish that a reduction in women smoking during pregnancy occurred after the law requiring signage was passed. I would like to thank Assemblywoman Pierce again for sponsoring this bill and I would be happy to answer any questions.

Chair Mastroluca:

Are there any questions?

Assemblyman Hambrick:

I would like to keep retailers from being overburdened by the amount of signage and increased costs associated with this bill. I understand we do need the signage and absolutely agree with the requirement. However, in some areas of

the state, such as the community in Las Vegas commonly referred to as "Chinatown," there are many ethnic groups who speak various languages: Laotians, Koreans, Japanese, Chinese, among others. Would each store have to display the sign printed with the warning translated into each of those languages? The bill is going to pass and I will vote for it, but I want to make sure that we do not cause an unnecessary burden for the retailers.

Assemblywoman Pierce:

The bill requires the sign to be displayed in the most common languages spoken in our state, English and Spanish. We would be very happy if retailers would display the sign in the language that reflects their customer base, but the bill only requires signs to be written in English and Spanish.

Assemblyman Hammond:

Whose responsibility is it to supply and incur the costs associated with displaying these signs? The language included in the bill stipulates that the sign must be displayed ". . . in a location conspicuous to the patrons of the establishment." Does that mean it has to be on the counter or next to where the cigarettes are sold? Should we include more detail on where the sign should be displayed?

Assemblywoman Pierce:

We want the sign to be displayed in a conspicuous area at the point of sale; at the actual point or cash register where the customer buys or picks up the product. We are asking that the retail establishment be responsible for supplying their own sign. In addition, as detailed in section 1, subsection 4, paragraph (b), the Health Division may solicit and accept donation of signs and ". . . distribute the signs upon request to retail establishments that are required to post signs." There is also a section that allows required signs to be combined. The last sentence in section 1, subsection 1 reads, "The contents of the warning may be included on any other sign which the retail establishment is required to post in a location conspicuous to the patrons of the establishment." All required warnings may be posted using the same sign.

Assemblyman Hammond:

Since the retail owner needs to produce the sign, it might vary in message content, color, or appearance as you travel from store to store. In my experience, an effective advertising blitz includes conformity. My concern is that there is no uniformity, except for the specified wording that must be included. One sign might be red, the next red, yellow, blue, or other color.

Assemblywoman Pierce:

I think your scenario might occur at the beginning, after the bill is first passed. I anticipate that ultimately sign makers will carry these signs and they will become more uniform at that time. We are taking a long-term view on this issue. It took awhile before the warnings on a package of cigarettes became part of the public's consciousness. This will also take some time, but getting the message out is a good thing.

Assemblyman Hammond:

You mentioned three or four other states that have already passed this type of legislation. Do you have any research reporting how their signage has impacted the effectiveness of the legislation? You said it has curbed the incidence of women who smoke while pregnant in Texas and other places. Do those states have uniform signage?

Michelle Gorelow:

Texas has combined signage, similar to what we asking for in this bill. It is the only state that has shown a reduction in smoking in women ages 18 to 24 during pregnancy. Because PRAMS was not implemented in Indiana or Pennsylvania prior to the legislation, there is no baseline record reflecting the numbers of women who smoked while pregnant prior to the legislation.

Assemblyman Hammond:

This is a great idea and we want it to be effective. While I do not have a lot of experience in retail, I know that advertising works best when people get used to or are drawn in by a particular look, color, or pattern. Since this bill does not stipulate exactly where the sign must be displayed, I am worried it might be placed behind a countertop display and the public will never see it.

Michelle Gorelow:

Because we wanted the retailer to have some flexibility, we were not very restrictive in the language dealing with what the sign would look like. We wanted to make sure the signage is displayed rather than be concerned that the retailer had to use colored ink versus black and white ink. Currently the "We Card" signs are provided to retailers at no charge. We are working towards having this message included on those cards so that it can be provided to retailers at no cost.

Assemblyman Anderson:

I want to compliment you on this bill. I think it is a good idea. I was wondering if you anticipate a regulations process by the Health Division or any other entity, once the bill is passed.

Assemblywoman Pierce:

Section 1, subsection 4, paragraph (a) includes a stipulation that the Health Division may, "provide by regulation for one or more alternative forms for the language of the warning . . ." if they are not satisfied with the language set forth in the bill.

Assemblyman Anderson:

Do you think the Health Division is likely to exercise that option?

Assemblywoman Pierce:

That is a possibility.

Assemblyman Anderson:

Do you think they will likely take that option? Have you spoken with them about this issue?

Assemblywoman Pierce:

I have not spoken with them about it, but I do not expect them to take that option.

Michele Gorelow:

I would also like to clarify that, if a retailer fails to display the sign because they are combining the required language onto another sign, the fee for violation is calculated per sign.

Assemblyman Livermore:

A retailer does not get to choose who walks through his door. Retailers tend to place signs in order to increase sales of a particular product. They place the signs to catch the buyer's eye. Do you think the Health Division will require the retailer to replace retail advertising space with the health warning signage? Can you guarantee that a retailer would not be charged with that responsibility?

Assemblywoman Pierce:

There is nothing included in the bill that would allow the Health Division to require that. I am not anticipating that.

Assemblyman Livermore:

I was in the retail business for years; I sold food. When my health inspector showed up, I wanted to make sure to please him. A health inspector could make a suggestion, such as, "That sign would be more visible from this location," based upon his own personal preference. This, in turn, could cause the retailer a loss in sales. I realize this scenario is hypothetical, but that is the reality of how things work sometimes.

Assemblywoman Pierce:

I do not anticipate that this would occur.

Chair Mastroluca:

Are there any other questions? Mr. McAnallen, would you like to say a few words?

Brian McAnallen, representing the March of Dimes Nevada Chapter Foundation:

As a volunteer for the March of Dimes, I am happy to try to make a difference in reducing the number of premature babies from one in every seven births in Nevada. I appreciate the support of this Committee and would be happy to answer any questions beyond this hearing.

Assemblyman Sherwood:

This bill is very commendable and clearly there is damage caused by smoking; however, a warning currently exists on cigarette packages. Smokers cannot get a cigarette out of the package without reading that warning. Retailers often must make a living on very thin margins and retail space is at a premium. I have been looking for the wording of the existing warning that is printed on the side of a package of cigarettes, but cannot seem to locate it. I am worried about the size of the sign. If we have the warning already on the product, why are we infringing more on the retailers? Could the signage be optional? What is the language of the warning that is currently printed on packages of cigarettes?

Assemblywoman Pierce:

I actually do not remember. It has, thankfully, been awhile since I looked at a package of cigarettes. Our goal is to educate the public on the negative health consequences of smoking while pregnant. These are in addition to all the terrible health consequences that happen to smokers in general. Before being involved with this proposed legislation, I did not fully understand this issue. There are huge numbers of women who are pregnant or plan to become pregnant who also do not know that smoking can cause birth defects, premature birth, and low birth weight. My aim is to make sure that this information becomes a part of the general knowledge base in our community in the same way we have generally come to understand the negative health consequences of smoking over the past 40 years.

Assemblyman Sherwood:

Let us see what is already in place. My hunch is that women who are pregnant already know the consequences of smoking while pregnant. I would caution to make the signage program voluntary. I would feel more comfortable if this program were voluntary.

Chair Mastroluca:

I believe Assemblyman Hammond has located the language of the existing warning that is printed on the side of cigarette packages.

Assemblyman Hammond:

I believe the Surgeon General has four different warnings that are rotated onto cigarette packages. They read as follows:

- SURGEON GENERAL'S WARNING: Smoking Causes Lung Cancer, Heart Disease, Emphysema, And May Complicate Pregnancy.
- SURGEON GENERAL'S WARNING: Quitting Smoking Now Greatly Reduces Serious Risks to Your Health.
- SURGEON GENERAL'S WARNING: Smoking By Pregnant Women May Result in Fetal Injury, Premature Birth, And Low Birth Weight.
- SURGEON GENERAL'S WARNING: Cigarette Smoke Contains Carbon Monoxide.

Chair Mastroluca:

Thank you for doing the research on the exact language of the warnings.

Assemblyman Brooks:

Thank you, Assemblywoman Pierce, for taking a stand on this issue. For the record, although I do understand that the warning already appears on a package of cigarettes, the writing is very small and not everyone actually reads the warning. There has been a lot of effort made to dispel the bad information that has been put out about tobacco. There is a large sector of people, in the minority population and all populations within the State of Nevada, who are unaware that smoking causes premature birth and birth defects. I would indulge Assemblywoman Pierce and encourage this bill, because I agree with the idea to educate the public regarding this issue; knowledge is power. I do not think a small 8.5" by 11" sign is going to make that big of a difference in the sales of a retail establishment, especially for those who choose to sell tobacco products.

Chair Mastroluca:

Are there any other questions?

Brian McAnallen:

This bill was first heard last session (Senate Bill No. 383 (1st Reprint) of the 75th Session) and passed in the Senate. During the final weeks of the session, the bill was voted upon by the Assembly Judiciary Committee and failed to

pass. When the March of Dimes wanted to reintroduce the bill this year, we continued a dialogue with the Retail Association of Nevada (RAN) which we had begun during the 2009 session. I believe we have addressed and alleviated most of their concerns. I do not want to speak for them, but I did want to point out to the members of the Committee that we have negotiated with RAN and have tried to meet their issues on this bill.

Chair Mastroluca:

Are there any other questions? [There was no response.] Thank you very much, we appreciate your testimony. I will now hear testimony in support of A.B. 170.

Amber Joiner, Director of Governmental Relations, Nevada State Medical Association:

We would like to go on the record as supporting this measure. The science is clear that smoking while pregnant is dangerous to the fetus. This bill reinforces the seriousness of those dangers. We support the prevention measures that are included in this bill.

Chair Mastroluca:

Are there any questions? [There was no response.] Is there anyone else who would like to speak in support of A.B. 170? I will now hear testimony from those people who signed in as neutral.

Lea Tauchen, Director of Government Affairs, Grocery and General Merchandise, Retail Association of Nevada:

During the interim, we had the opportunity to work directly with the March of Dimes. During the 75th Legislative Session (2009), we did have some concerns regarding the burden placed upon the retailer by the additional signage that is required by this legislation. We were concerned that additional signage would be overwhelming to the consumer. The proposed language addresses that issue and it was encouraging to hear that "We Card" signs will eventually provide consistent signage that will conform from store to store. If you have any questions, I would be happy to answer them.

Chair Mastroluca:

Are there any questions? Is there anyone in opposition to A.B. 170? [There was no response.] I will close the hearing on A.B. 170.

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Is there anyone here for public comment? [There was no response.] Seeing none, I call this meeting adjourned [at 2:52 p.m.].

RESPECTFULLY SUBMITTED:

Mitzi Nelson
Committee Secretary

APPROVED BY:

Assemblywoman April Mastroluca, Chair

DATE: _____

EXHIBITS

Committee Name: Health and Human Services

Date: March 2, 2011

Time of Meeting: 1:32 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 148	C	Assemblywoman Mastroluca	Proposed amendment
A.B. 148	D	Victor-Hugo Schulze III	Proposed amendment
A.B. 170	E	Michelle Gorelow	Prepared testimony
A.B. 170	F	Michelle Gorelow	Brochure: March of Dimes 2010 Premature Birth Report Card
A.B. 170	G	Michelle Gorelow	Brochure: The Many Costs of Premature Birth