

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

**Seventy-Sixth Session
April 8, 2011**

The Committee on Health and Human Services was called to order by Chair April Mastroluca at 1:12 p.m. on Friday, April 8, 2011, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/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:

Assemblywoman Olivia Diaz, Clark County Assembly District No. 11

STAFF MEMBERS PRESENT:

Paul V. Townsend, Legislative Auditor
Jane Bailey, Audit Supervisor
Kirsten Coulombe, Committee Policy Analyst
Risa Lang, Committee Counsel
Mitzi Nelson, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Danielle Bowen, Director, Nevada Afterschool Network
Julie Woodbury, Volunteer, Nevada Afterschool Network
Charles Searle, representing the YMCA of Southern Nevada
Dulcinea Almazan, President/CEO, Boys & Girls Clubs of Las Vegas
Jackie Locks, Executive Director, After-School All-Stars Las Vegas
Darren McKay, Youth Enrichment Specialist, Community Chest, Inc.
Diane McCoy, Director of Operations, Boys & Girls Clubs of
Western Nevada
Paula Berkley, representing Food Bank of Northern Nevada
Kevin Schiller, Director, Department of Social Services, Washoe County
Julie Butler, Records Bureau Chief, Records and Technology Division,
Department of Public Safety
Barbara de Castro, Provider Member, Nevada Youth Care Providers

Chair Mastroluca:

[Roll was called.] We will start with our work session. Kirsten Coulombe, Committee Policy Analyst, will review Assembly Bill 295.

Assembly Bill 295: Revises provisions governing the disposition of the human remains of certain deceased military personnel. (BDR 40-1073)

Kirsten Coulombe, Committee Policy Analyst:

The first bill we have on the work session document ([Exhibit C](#)) is A.B. 295, which authorizes a person designated on a U.S. Department of Defense Record of Emergency Data, commonly known as the DD Form 93, to order the burial of human remains if the decedent was a member of the Armed Forces. This provision makes an addition to the current order of priority for the burial of human remains. The sponsor of the bill has proposed to add amended

language, "at time of death," to the bill to ensure that this provision applies while a person is on active duty.

Chair Mastroluca:

We just heard this bill, so it should be relatively fresh in the Committee's mind. Is there discussion on the bill or amendment? [There was none.]

ASSEMBLYMAN HAMBRICK MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 295.

ASSEMBLYMAN ANDERSON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN BROOKS WAS ABSENT
FOR THE VOTE.)

Chair Mastroluca:

Assemblyman Anderson, will you handle the floor statement?

Assemblyman Anderson:

Yes.

Chair Mastroluca:

We will now move on to Assembly Bill 319.

Assembly Bill 319: Revises provisions governing the final disposition of human remains. (BDR 40-775)

Kirsten Coulombe, Committee Policy Analyst:

The second bill is A.B. 319, which also deals with the burial of human remains. This bill authorizes, in the absence of any person specified in the order of priority, any person over the age of 18 to assume legal and financial responsibility for the remains and order the burial. The sponsor of this bill has submitted proposed amendment language, which is included in the work session document ([Exhibit D](#)). This amendment was reviewed during the hearing.

Chair Mastroluca:

Again, we recently heard this bill. There was some discussion, which I believe the sponsor has addressed in the amendment. Is there any discussion? [There was none.]

ASSEMBLYMAN LIVERMORE MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 319.

ASSEMBLYMAN CARRILLO SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN BROOKS WAS ABSENT
FOR THE VOTE.)

Chair Mastroluca:

Ms. Diaz, would you like to handle your floor statement?

Assemblywoman Diaz:

Yes.

Chair Mastroluca:

We will move on to Assembly Bill 534.

Assembly Bill 534: Increases penalties for operating certain group homes
without a license. (BDR 40-671)

Kirsten Coulombe, Committee Policy Analyst:

This was one of the bills we heard on Wednesday regarding group homes. Assembly Bill 534 transfers the authority from the Office of the Attorney General to the Health Division for the purpose of imposing civil penalties for operating unlicensed residential facilities for group homes and also homes for individual residential care. The civil penalties and time frame in order to apply for a license is increased for each offense. [Ms. Coulombe continued to read from the work session document ([Exhibit E](#)).]

Chair Mastroluca:

Is there discussion on this bill? [There was none.] I will entertain a motion.

ASSEMBLYWOMAN PIERCE MOVED TO DO PASS
ASSEMBLY BILL 534.

ASSEMBLYMAN GOICOECHEA SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN BROOKS WAS ABSENT
FOR THE VOTE.)

Chair Mastroluca:

We will now close our work session and move on to Assembly Bill 362.

Assembly Bill 362: Revises provision governing education. (BDR 38-782)

Assemblywoman Olivia Diaz, Clark County Assembly District No. 11:

I appreciate your time in hearing A.B. 362 this afternoon. There are two reasons that we wish to pass A.B. 362. The state currently should be licensing out-of-school time (OST) programs; however, it lacks the resources to do so, and the regulations that are currently in statute are inappropriate for OST programs. The second reason is to establish a voluntary task force that would create standards to reinforce or enhance the quality of OST programs. These are the main objectives that A.B. 362 is designed to achieve.

We have submitted a proposed conceptual amendment (Exhibit F). Section 2 of the bill gives a definition of activities that qualify as an OST program and when they may operate. That is relatively straightforward. The amendment further clarifies that OST programs do not include single-focused activities, such as religious education, music lessons, sport practice, tutoring, or school-based clubs.

The conceptual amendment also would delete section 3 of the initial draft of the bill. I will point out that the third point in my proposed amendment states that sections 6, 7, and 8 will also be deleted. However, we are still debating whether we want our additions to these sections to remain in the bill. I reviewed Senate Bill 53, the bill that the City of Henderson has submitted. They are also seeking that local government programs not be deemed child care facilities. They have also adopted the exact language in their version that we have included in sections 6, 7, and 8. I think it would behoove us to keep that language as is. We will continue to talk to all the parties who want the bill and see if there is agreement on this issue.

Section 5, subsection 2, paragraph (d), clarifies that OST programs are not child care facilities. This is a very central issue in bringing this bill before the Legislature. Currently, the regulations governing a child care facility do not necessarily apply to an OST program. Requiring such regulations makes it very hard for an OST program to continue to operate.

We also wish to amend section 10 of the bill to include a sunset date of June 30, 2013. The bill included a sunset date of June 30, 2012, as originally drafted. The intent is to have the sunset date coincide with the end of the next legislative session. Additionally, section 9 establishes an interim task force for OST programs. The various OST programs are voluntarily taking the formation

of this task force upon themselves to ensure that these programs have high quality standards and that our children are receiving the very best programs. Many organizations are coming together to partake in the process. None of us can disagree that we want the best for our children. If the programs can fine-tune and improve themselves, it is a win for everyone. With that I can answer questions.

Assemblyman Livermore:

There are several entities within a community that offer OST programs, such as parks and recreation departments, latchkey programs, or "kick-back camps." Are these included in the definition of an OST program?

Assemblywoman Diaz:

The heart of the issue will include questions regarding who wants to come on board with this program. We are more than willing to include any program that fits the definition of an OST program. We have tried to reach out across the board, but have not had much success with municipalities. They are seeking their own bill through the Senate, which will also come to the Assembly for consideration. Currently the Boys & Girls Clubs of America, the YMCA, and other for- and nonprofit organizations have expressed interest in coming together to work on this issue.

Assemblyman Livermore:

I am pleased to hear that, because I know how important these services are in a local community. I would hope that what you are trying to accomplish would not compete with and separate the resources that it takes to provide these programs.

Assemblyman Frierson:

Regarding the proposed amendment to section 2, can you clarify what is meant by "continuing basis?" Does that include the summer and holiday breaks, or is it meant to be longer?

Assemblywoman Diaz:

I will read from the handout provided by Nevada Afterschool Network (NAN) ([Exhibit G](#)). It says, "OST programs provide regularly scheduled, structured and supervised activities where learning opportunities take place outside the typical school day. OST programs may occur before school, after school, weekends, or during seasonal and track breaks."

Assemblyman Frierson:

There is also the provision that discusses religious education as a single subject. Would that be interpreted that an OST cannot take place at a church? Does it mean the topic and not necessarily the organization?

Assemblywoman Diaz:

I believe that provision would refer to the topic, but I would ask Danielle Bowen, Director of NAN, to elaborate on this issue.

Danielle Bowen, Director, Nevada Afterschool Network:

The intent was on a singled-focused activity, such as an educational class, not necessarily a church that provides an afterschool or OST program.

Assemblyman Frierson:

Section 9 says OST programs must comply with other requirements. Does that include background checks or screening for those who are in a position to supervise?

Assemblywoman Diaz:

I believe that most of these organizations undertake background checks and screening before they take anyone for their programs. Again, I am not the expert in this subject matter.

Julie Woodbury, Volunteer, Nevada Afterschool Network:

Certainly, part of this process is to create program standards that OST programs would follow. This would include background checks. We would address that issue in this bill.

Assemblyman Goicoechea:

Section 7, subsection 1, of the bill clarifies the definition of a child care facility. Does this section mean as long as you do not provide care for five or more children, then you would not be deemed a child care facility?

Assemblywoman Diaz:

I believe that language is in the current statute.

Chair Mastroluca:

Is it also included in your amendment as a section that was deleted?

Assemblywoman Diaz:

Yes, but that is the section we are on the fence about, as to whether we will incorporate it or not in the bill. We would take input as to whether its inclusion hinders our objective.

Chair Mastroluca:

Can you restate your concern, Mr. Goicoechea?

Assemblyman Goicoechea:

I wanted to make sure of the actual definition, whether it is in current statute or not. Clearly, there are friends of the family who would keep two or three children. I would like to make sure the clarification is in place that you have to keep more than five children before you can be determined to be a child care facility.

Assemblyman Hambrick:

Section 2, subsection 3, deals with year-round school. Clark County no longer has year-round school and nowhere in the bill does it refer to age brackets. When the term "children" is used, assumptions will be made. Does this refer to Grades K through 12 or K through 5?

Assemblywoman Diaz:

When I read the OST definition from [Exhibit G](#), I did not include the first sentence, which would have clarified that for you. It says, "Out-of-school time (OST) programs operate ten hours or more per week on an on-going basis serving school-age (K-12) children." That is the specific population.

Chair Mastroluca:

Mr. Hambrick's question does bring up a point, because it does not specify that age range in the statute. It could apply to early childhood programs. Was that the intent?

Danielle Bowen:

There was no intent to include child care. It was to include only OST programs serving children in Grades K through 12. That could be another component that we would add to the revision.

Assemblywoman Pierce:

Can you tell me what the task force is going to do?

Assemblywoman Diaz:

I will defer to Ms. Bowen, who will elaborate on the purpose of the task force.

Danielle Bowen:

The task force would look at the current standards of national OST programs and decide which standards are most appropriate for Nevada. This would include activities, settings, and staffing requirements for such programs. The task force would include representation from for- and nonprofit programs,

so that we get a nice representation across the board. In addition, the task force would look at a voluntarily-recorded program to be put into a resource and referral agency where we could track OST programs, including supply and demand. Later, we would look at professional development opportunities for OST programs.

Assemblywoman Pierce:

Once you have developed these standards, do you anticipate asking for further legislation?

Danielle Bowen:

Yes, the bill actually says that the task force will provide recommendations by the next legislative session. We would decide if these standards fit within current licensing requirements, if there would need to be new requirements placed into legislation for OST programs, or if regulations for OST programs would best fit somewhere else. The task force does have an ending time frame. We would state how we want to put these standards into place by the next legislative session and how it would all lay out with the least fiscal impact on the state.

Assemblywoman Pierce:

Would you be amenable to have this expire, so that we are sure that it is not forgotten about?

Assemblywoman Diaz:

The task force would sunset June 30, 2013.

Assemblywoman Smith:

I would like to note for the record that I am an advisory member of NAN. I wanted to clarify, regarding the home care issue that was previously raised, that home care providers are already required to be licensed. That requirement does not change in this bill. This bill exempts the casual home care scenario in section 7, subsection 2, so we do not have to worry about the mom who watches children during a school break. I wanted to make sure that I understand that correctly. This does not change any home care provider's conditions.

Assemblywoman Diaz:

That is correct.

Chair Mastroluca:

Are there further questions? Are there others who would like to give testimony in support of A.B. 362?

Danielle Bowen:

I am speaking on behalf of OST programs throughout the State of Nevada. We want to ensure that access to OST programs is a priority. I have submitted a document that discusses the involvement we have with the national network of Statewide Afterschool Networks ([Exhibit H](#)) to ensure quality for OST programs and access throughout the nation. [Ms. Bowen continued to read from prepared testimony ([Exhibit I](#)) regarding her background and involvement with NAN.]

More than 38,000 children in Nevada take care of themselves after school each day. This does include kindergarteners. The *Child Care in the State of Nevada: 2009 Demographics Report* from The Children's Cabinet ([Exhibit J](#)) shows that we are meeting only 15.61 percent of the demand for these programs. [Ms. Bowen resumed reading from her prepared testimony.]

Chair Mastroluca:

Are there questions for Ms. Bowen? Regarding the makeup of the task force, why is there a need for so many people?

Danielle Bowen:

We want to make sure that we encompass all of the OST programs that are offered and that we connect with the child care agencies that already provide opportunities for resources and referrals, as well as with registries that provide training for OST programs. We want to include for- and nonprofit organizations, school districts, municipalities, faith-based organizations, and statewide agencies that help link these services. We felt there was a need to have representatives from all entities involved.

Chair Mastroluca:

Do you feel confident that the amount of time given within this bill would allow the task force to achieve its goal?

Danielle Bowen:

I would agree that we would have enough time. We have great resources through the national statewide networks and other task forces that have done similar studies within a two-year time frame. We are not looking at creating new standards; we are looking at adopting standards.

Chair Mastroluca:

Why would we not adopt standards that already exist in other states?

Danielle Bowen:

We would like to make sure that the OST programs have a buy-in and that the standards adopted reflect their needs. Many of the OST programs that already exist, such as Boys & Girls Clubs of America and YMCA, currently have their own standards. We would like to make sure that we are not creating more work and less opportunity for their programs. We would look at all the standards that are out there and then decide which ones would best fit Nevada's needs.

Chair Mastroluca:

What happens with the smaller groups? For instance, what if there is a faith-based afterschool care group that decides they do not really want to follow state standards. Perhaps they have talked to the parents involved and they just want to have a safe place for their children to play? Would they be required to follow the standards that have been set forth?

Danielle Bowen:

That is exactly why we want to include every type of program, so that we have all their voices at the table when we talk about standards. For instance, standards might require background checks as well as outline safety and structure of a program. At that point, any program could state that these standards do not fit their needs. The same issue could come about if the standards include components covering academic achievement—those elements would fit only the programs that provide those activities.

Julie Woodbury:

To expand upon that answer, we would like to pilot test a voluntary recorded program process. That would mean OST programs would choose whether or not to record their program. They could choose to not record their program and not follow program standards. Programs that do voluntarily record would agree to adhere to quality program standards.

Chair Mastroluca:

Are there any other questions from the Committee? I do not see any. Ms. Woodbury, did you have a statement to make?

Julie Woodbury:

I have worked in OST programs for four years. This bill asks for a two-year period of time for a task force of experts to review OST programs to determine what are the most appropriate standards for school-aged youth.

[Ms. Woodbury continued to read from prepared testimony ([Exhibit K](#)).]
I encourage you to not pass up this opportunity to review OST programs and to create standards specifically for school-aged youth.

Chair Mastroluca:

Are there any questions?

Assemblyman Sherwood:

Do you see the program standards as remaining voluntary in the next five to ten years? Would those programs that follow the standards be given sort of a "Good Housekeeping Seal" that warrants they have opted in and provide a good experience for children? Is that the purpose?

Julie Woodbury:

We think this is the best way to move forward. Recorded programs would then have this stamp of approval to which you referred, and NAN would raise awareness among OST programs, families, school districts, and communities regarding the importance of having standards in place and how those impact children.

Assemblyman Sherwood:

I think if we can keep it within those parameters, this bill makes sense.

Chair Mastroluca:

Are there additional questions? Is there anyone else you would like me to call to testify?

Assemblywoman Diaz:

If you could go down to those present in Las Vegas, we would like to give them the opportunity to support the bill.

Charles Searle, representing YMCA of Southern Nevada:

The YMCA of Southern Nevada would like to thank you for this opportunity to testify in support of A.B. 362. Youth development is our area of expertise. The YMCA has been around for 160 years, and 67 years in Las Vegas. [Mr. Searle continued to read from prepared testimony ([Exhibit L](#)) regarding the importance of OST programs for children and the YMCA of Southern Nevada's concerns about OST programs having to adhere to the licensing standards for preschools that are in existing statute.]

Chair Mastroluca:

Are there any questions? I do not see any.

Dulcinea Almazan, President/CEO, Boys & Girls Clubs of Las Vegas:

I am here in support of A.B. 362, which exempts OST programs from child care licensing and creates a two-year task force. Boys & Girls Clubs of Las Vegas is a 50-year-old youth development organization. Our organization serves over 14,000 school-aged youth annually at eight facilities throughout Clark County. We operate on a \$5.2 million budget. Club programs and services promote and enhance youth development by instilling a sense of competence, usefulness, belonging, and influence. This is achieved through our national evidence-based programs: Triple Play, which focuses on healthy lifestyles for mind, body, and soul; Project Learn, which focuses on academic success; SMART Moves, which focuses on substance abuse prevention; and others.

These programs are delivered by full- and part-time employees and volunteers. As an affiliate of Boys & Girls Clubs of America, we are required to screen all employees and volunteers. We are fully compliant with the federal regulations pertaining to the Drug-Free Workforce Act of 1988. We require that every employee and volunteer pass a drug test prior to placement. Each employee must also agree to submit to random, reasonable-suspicion, and post-accident drug testing. We also have a very extensive criminal background check, including state and FBI fingerprint and background checks. We also perform a preliminary Internet search using LexisNexis, which reviews national criminal files, sex offender registries, and criminal records searches in all counties where the candidate has lived over the last seven years. In addition, we conduct a Social Security number verification and motor vehicle records search in certain cases. That information is updated every one to two years.

We strive to be a strong community partner and we look forward to the opportunity to participate on the task force. We would also be willing to input our program information into the voluntary database. We are very committed to quality standards and look forward to sharing our knowledge. Thank you for the opportunity to be here today.

Chair Mastroluca:

Thank you very much. Are there any questions? I do not see any. Is there anyone else in Las Vegas who would like to testify in support of A.B. 362?

Jackie Locks, Executive Director, After-School All-Stars Las Vegas:

I am here today to testify in support of A.B. 362. I would like to talk a little about the programs that we offer, which can serve as a perfect example of what this bill encompasses. We currently work on 15 school campuses in

partnership with the Clark County School District. We provide programs that are comprehensive in nature and operate a minimum of 12 hours per week. During the first hour of each day, the children participate in an academic activity such as reading, writing, or math. All our programs are geared to meet the improvement goals of the particular schools with which we work. The second part of the day, the kids engage in sports, cultural, music, or art activities to keep them active and off the streets.

We have been in operation in Las Vegas for 15 years. We are part of a national organization that serves about 82,000 children per year. Currently, we are the largest provider of comprehensive programs nationwide. Our programs are funded primarily by private corporations and individuals. We also do a lot of grant writing. Our programs are 100 percent free to every child who attends. We have never asked for any money to run the programs. Our programs are regularly scheduled, so they fit with the language of the bill. A child initially signs up for a six- to eight-week session and then reregisters for each new session. Primarily, our instructors are contracted school teachers and all go through an extensive background check. Most of our teachers are licensed by the State of Nevada. Those who are not undergo extensive training and background checks.

I am very excited about this bill and would be more than willing to participate on the task force. I will conclude by saying that we do have a proven record of academic success. I am excited about the data that will be collected through this legislation. I feel that it is important for us to justify the claim that our programs are making a difference. Like the YMCA and Boys & Girls Clubs of America, our programs benefit the entire community. We feel they keep children safe, while keeping our community safe. We touch the lives of thousands and thousands of children every single afternoon. We provide them with a safe place to be and positive role models. I would like to thank you and repeat that I am very excited about and willing to support this bill in any way I can.

Chair Mastroluca:

It is very apparent for those of us who live in southern Nevada that After-School All-Stars is a very successful program which has a big impact on many parts of the community. Why do you see it as a benefit for your organization to be part of this group?

Jackie Locks:

We need to step up and be part of this national network that is making such a great impact in other states. I have been involved in this process since the

beginning and I feel that we can gain a great deal of support from being part of a national network.

Chair Mastroluca:

Thank you. Are there any questions from the Committee? Is there anyone else in Las Vegas who would like to speak in support of A.B. 362? We will move to Carson City.

Darren McKay, Youth Enrichment Specialist, Community Chest, Inc.:

I am here today to testify in support of A.B. 362. As an OST provider, my organization provides before- and afterschool programs for families in Storey County. Our program provides academic enrichment, social skills, and healthy living education to create productive citizens of tomorrow. The majority of our program costs are covered directly by the families. I am very supportive of this bill in that it seeks to alleviate the financial burden that might be represented by unnecessary licensing requirements. We receive supplemental funds from The Children's Cabinet, Community Services Block Grant program, and foundation money, which help us cover some of the program costs and some scholarship opportunities for low-income students. Without this program, or the many other similar programs across the state, parents would really struggle to find a safe place for their children to stay while they are working. This is especially true for single parents.

In addition to our traditional elementary before- and afterschool program, we have outdoor adventure programs for middle and high school youth. These programs build confidence and self-worth. Our groups have volunteered with the Tahoe Rim Trail Association, the Food Bank of Northern Nevada, Habitat for Humanity, and many others. We do rock climbing, backpacking, and other adventure activities. I am very supportive of the component of this bill that looks to find some of the best practices and recommend standards for OST activities. Our organization is interested in submitting our information to the voluntary database to help create the best standards for Nevada.

Chair Mastroluca:

Are there any questions? I do not see any. Are there others who wish to testify on A.B. 362?

Diane McCoy, Director of Operations, Boys & Girls Clubs of Western Nevada:

I do not have a lot of new things to add. We run programs in Carson City for Fremont Elementary, which follows a year-round schedule, and afterschool programs for additional schools, including Pau-Wa-Lu Middle School in Gardnerville. We receive 21st Century School Fund money. I would

recommend that we go forward with this legislation and I would like to be part of the task force, if possible.

Chair Mastroluca:

Are there any questions? I do not see any. Is there anyone else who would like to testify in support of A.B. 362, either in Las Vegas or Carson City?

Paula Berkley, representing Food Bank of Northern Nevada:

We were very pleased to see this bill, because we certainly recognize that there are a lot of children who need constructive afternoon activities. Most of the organizations that are represented here today already partner with the Food Bank of Northern Nevada to provide meals for their programs. I encourage this type of organization, because more structure allows the programs to qualify for federal funding sources that support afterschool programs. That money would be reimbursed automatically and the Food Bank could play a role in providing meals for these programs. Structure creates more possibilities. While the Food Bank would not need to participate in the task force, we would be available to the task force if we could assist them in figuring out how to integrate the nutrition element into OST programs.

Chair Mastroluca:

Are there any questions? If there is no one else who would like to testify in support of A.B. 362, we will take any opposition. Is there anyone who would like to oppose A.B. 362, either in Las Vegas or Carson City? Is there anyone neutral on A.B. 362? Assemblywoman Diaz, would you like to make any further comments?

Assemblywoman Diaz:

Again, I appreciate the time that you and the Committee have taken to hear A.B. 362 this afternoon. I would like to state for the record that I believe this is a good first step in the right direction, especially when the OST programs are volunteering to undertake this task. It is always good when you have everyone on board, they are part of the process, and their input is heard, rather than having something imposed on them that does not necessarily fit. I would also like to echo the comments made about the registry. It is another tool to inform parents what kinds of activities are available for afterschool and school-break care. I urge you to consider A.B. 362 in a favorable manner. Thank you.

Chair Mastroluca:

I will close the hearing on A.B. 362 and open the hearing on Assembly Bill 536, which came out the interim Legislative Committee on Child Welfare and Juvenile Justice.

Assembly Bill 536: Revises provisions relating to background checks for certain persons who work with children. (BDR 38-201)

Assemblyman Jason Frierson, Clark County Assembly District No. 8:

As Chair Mastroluca mentioned, this bill came out of the Legislative Committee on Child Welfare and Juvenile Justice, which was established during the 75th Legislative Session of 2009. Assembly Bill No. 629 of the 74th Session in 2007 and Assembly Bill No. 103 of the 75th Session in 2009 authorized the Legislative Auditor to conduct performance audits of facilities to evaluate the safety and welfare of children housed there. Thirteen facilities were visited, unannounced, and surveys were conducted. As a result of these audits, the Audit Division recommended that background check requirements of children's facilities be strengthened. Assembly Bill 536 proposes to do just that.

I will go through the bill generally, and I will also have some of those who were involved with the process provide more detailed information and answer questions. In general, sections 2 through 6 address foster homes and require background checks for anyone who will have unsupervised contact with a child. If a person has a conviction for certain crimes, he must be terminated. Further, the facility must keep these records and conduct further background checks every five years. Sections 8 through 10 do the same thing for child care facilities. Sections 12 through 14 involve institutions and agencies that house a child referred by the juvenile court. Sections 17 through 24 address facilities that provide residential mental health treatment to children and other medical facilities. Lastly, section 25 requires that employees submit to these measures by October 1, 2011.

In developing and discussing this bill with those involved, I have become aware that the Department of Public Safety has some concerns regarding whether every single provision could be achieved pursuant to federal law. We are certainly willing to make some adjustments so that this bill will be practical and workable. I have Paul Townsend here and I would love to have him come forward and present some historical information and answer the Committee's questions.

Paul V. Townsend, CPA, CIA, Legislative Auditor, Audit Division, Legislative Counsel Bureau:

One of the statutory responsibilities of my office is to conduct reviews of residential facilities where children are placed pursuant to a court order. These reviews involve a variety of types of facilities including correction and detention facilities, certain group foster homes, substance abuse treatment facilities, mental health facilities, and child welfare facilities. The need for legislation regarding background checks originated from these reviews. We found a lack

of consistency regarding background check requirements among the different facilities, although they were all providing residential placements for children.

We have provided to the Committee a copy of our report, *Review of Governmental and Private Facilities for Children, 2010* ([Exhibit M](#)), as well as a one-page summary ([Exhibit N](#)). I would like to have Jane Bailey, who supervises these reviews, discuss some of the specifics of this report. I would also be happy to answer any questions you might have.

Chair Mastroluca:

Ms. Bailey, please go ahead.

Jane Bailey, Audit Supervisor, Audit Division, Legislative Counsel Bureau:

The report you have in front of you includes the results of our reviews of 13 children's facilities. This report is the second of three reports that the Legislative Auditor has released on reviews of governmental and private residential children's facilities. In total, we have conducted and reported on reviews of 32 facilities; 26 of those 32 facilities did not follow best practices to screen potential or current employees to ensure that they had appropriate backgrounds.

Exhibit 3, on page 6 of the report, describes some of the most serious weaknesses at the 13 facilities included in this report. Some of these issues include: not conducting periodic postemployment background checks, policies that do not address hiring employees with prior criminal histories, files that do not contain either the results of the background checks or clearance letters issued by the licensing agencies, and obtaining background checks based on Social Security numbers instead of fingerprints. In addition, facilities do not always follow up when the results of background checks are not received, or the results show an arrest but no conviction information. As a result, one facility had four employees with felony convictions, including assault with a deadly weapon and theft. However, since it was a substance abuse treatment facility, obtaining background checks on all employees was not required. While the facility's policies required employees to be fingerprinted, the policies did not provide guidance on the types of convictions that would exclude a person from employment. In addition, the facility did not determine whether reported arrests resulted in criminal convictions.

Continuing on page 7, current requirements for background checks vary between different types of facilities depending on the type of license and the licensing agency. Six of the 13 facilities reviewed were not required by Nevada law or regulation to obtain background checks on all employees. This included four correction or detention facilities and two substance abuse treatment

facilities. Even though not required, all six did obtain background checks of newly hired employees. However, two of the facilities used background checks based on Social Security numbers and names instead of fingerprints, or obtained only local background checks. Background checks on Social Security numbers and local background checks may not be as complete or accurate as state and federal background checks based on fingerprints. Different types of facilities also have different time frames for obtaining background checks and different requirements for periodic postemployment background checks.

Exhibit 4, on page 8, lists the types of facilities included in our review, the statutory or regulatory requirement for background checks, a brief description of those requirements, and the licensing agency. For example, the exhibit shows that the background check requirements for group foster homes can be found in Chapter 424 of *Nevada Revised Statutes* (NRS) and *Nevada Administrative Code* (NAC), and applicants must submit fingerprints to the licensing agency. But the NRS and NAC do not contain a list of convictions that would exclude a person from employment. However, NRS Chapter 432A does list convictions that would exclude a person from working at a licensed child care facility. Exhibit 5, on page 9, shows the types of licenses and licensing agencies, and provides examples of the facilities that are licensed.

We also researched statutory and regulatory requirements for background checks for several other Western states. While no state had statutes that were comprehensive, several contained requirements that were either more specific or stronger than those in Nevada. For example, *New Mexico Administrative Code* requires employees of all child care facilities or programs be under direct physical supervision until they receive clearance. This includes facilities that have primary custody of children for 24 hours a week or more. In order to ensure that all children in Nevada facilities are afforded equal protection, we recommended the Legislature consider enacting legislation to make background check requirements consistent for all types of residential facilities. Our recommendation can be found on page 11. Assembly Bill 536 contains the provisions that were included in these recommendations. Thank you for your consideration.

Chair Mastroluca:

Are there questions from the Committee? I do not see any. I will share with the Committee that Assemblyman Hambrick and I sat on this interim committee. It was an eye opener to hear that in one facility four employees had felony convictions. It really brought home for us the need for legislation such as this. We did support this in the interim committee. Mr. Frierson, how would you like to proceed?

Assemblyman Frierson:

If there are no questions, then I would reiterate that this bill came about from a realization of what was going on. I think it is an important step in protecting children in our facilities.

Chair Mastroluca:

Are there any final questions?

Assemblyman Brooks:

How is it that employees of any type of facility that deals with children would not undergo a background check? I believe if you work for any school district or child care facility, you have to undergo some type of background check. I am trying to understand how this could have occurred. Was it mere oversight?

Chair Mastroluca:

If you look at page 8 of [Exhibit M](#), it does talk about the requirements. With the exception of substance abuse treatment facilities and some of those in detention and correction, the facilities do ask for an original background check. However, the issue across the board was either they do not ask for follow-up checks or the amount of time varies between checks. In the substance abuse facilities, certain employees were exempted altogether. Perhaps Mr. Townsend and Ms. Bailey could expound upon that.

Paul V. Townsend:

Consistency is an issue. Although laws may not have required some of the entities to get background checks, some facilities did require them, such as the detention and correction facilities. Another problem we found was, when the background checks came back, the facilities were not sure what to do with them if they did indicate a crime had occurred. This legislation lays out very objectively what action should be taken based upon the type of offense reported. I think it would be very helpful to take a lot of the subjectivity out of the process.

Chair Mastroluca:

I will note that there are some concerns regarding federal laws and privacy information, as Assemblyman Frierson touched upon earlier. There are questions regarding the amount of information that can be given to a private institution based upon a background check. That would need to be worked out. Are there additional questions?

Assemblywoman Benitez-Thompson:

I have a couple of technical questions I would like to have answered in order to make sure I fully understand the bill. Section 2, on page 3, lines 4 and 5 mentions "evidence from any other source," regarding an employee who is an applicant. Does that mean tangible proof that the potential employee has had some type of criminal action, or can it be hearsay?

Paul V. Townsend:

That wording is included in the section that deals with licensing of foster homes. There would be information from the licensing authority or evidence brought forward from some other law enforcement agency, so that if the entity was aware of it, they would need to follow that up.

Assemblywoman Benitez-Thompson:

So for clarification, if an applicant was known in the community as someone who may have engaged in some kind of criminal activity, you could put them on hold for a 30-day period to prove they have a clean record?

Chair Mastroluca:

Instead of having Mr. Townsend take a shot in the dark with this, I would ask Mr. Schiller to come to the table, since he deals with this on a regular basis. He should be able to provide some clarification for your question.

Assemblywoman Benitez-Thompson:

Thank you.

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

Obviously, this bill is focused on the criminal background of an employee or potential employee. In our current practice related to the regulation of foster homes, when we are collecting information for our home study or other collaborative process, additional information may bring something to our attention that we need to follow up on. To address your question specifically, whether it is rumor or something viable, the onus would be on us to conservatively make a decision on what we would do with that information moving forward.

Assemblyman Frierson:

I would like to point out that at the end of that same section, it does discuss that the employee will have the opportunity to correct the information. There is a process whereby, if there is not an actual police report, the information may be clarified. I would presume the language is included so that every possible problem might be investigated.

Assemblywoman Benitez-Thompson:

My point was to get it on the record that oftentimes there can be a lot of speculation about a person's character. I wanted to clarify if the requirement was for tangible or hard evidence that shows someone might have been convicted of the crimes listed, or if the mere thought or suspicion would be enough to follow up on the person.

Chair Mastroluca:

Are there additional questions from the Committee? I do not see any. Mr. Schiller, you were signed in. Did you have a statement?

Kevin Schiller:

I have a quick one. I wanted to state our support for A.B. 536. I would secondarily state that there have been a couple of references regarding the Department of Public Safety and the storage of records. We will collectively work with all parties to try to address that issue. Simply put, it becomes an issue of where we can store the records pursuant to federal requirements. We will assist in that process as needed.

**Julie Butler, Records Bureau Chief, Records and Technology Division,
Nevada Department of Public Safety:**

My office houses the Nevada Criminal History Repository and conducts the preemployment criminal history background checks for applicants to provide foster care, applicants and residents of child care facilities, and a variety of other occupations ranging from day care workers to teachers. [Ms. Butler continued to read from prepared testimony ([Exhibit O](#)) regarding sections of the bill that, as drafted, would not qualify for the FBI to release criminal history records.]

Chair Mastroluca:

To confirm, you are neutral on the bill?

Julie Butler:

That is correct.

Chair Mastroluca:

Are there any questions? I do not see any. Is there anyone else who would like to speak on A.B. 536, either in support, against, or neutral?

Assemblyman Frierson:

I intend to work quickly with those who have concerns to draft an amendment.

Barbara de Castro, Provider Member, Nevada Youth Care Providers Group:

Madam Chair, if I may, my name is Barbara de Castro and I am here today on behalf of the Nevada Youth Care Providers group to voice our support of A.B. 536. We would encourage any person who works with any child who is in a foster home placement that provides rehab mental health services, or mental health services, also be required to have a background check.

Chair Mastroluca:

You signed in but not as in support or against the bill or that you wanted to speak. That is why I did not call on you; I apologize. Is there anyone else who wishes to testify on A.B. 536? [There were none.] With that, I will close the hearing on A.B. 536. Is there anyone here for public comment? [There were none.] This meeting is adjourned [at 2:30 p.m.].

RESPECTFULLY SUBMITTED:

Mitzi Nelson
Committee Secretary

APPROVED BY:

Assemblywoman April Mastroluca, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Health and Human Services

Date: April 8, 2011

Time of Meeting: 1:12 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance roster
A.B. 295	C	Kirsten Coulombe	Work session document
A.B. 319	D	Kirsten Coulombe	Work session document
A.B. 534	E	Kirsten Coulombe	Work session document
A.B. 362	F	Assemblywoman Olivia Diaz	Proposed amendment
A.B. 362	G	Danielle Bowen	Out-of-School Time Definition
A.B. 362	H	Danielle Bowen	Quick Facts on School-Age Care
A.B. 362	I	Danielle Bowen	Prepared testimony
A.B. 362	J	Danielle Bowen	Child Care in the State of Nevada: 2009 Demographics Report
A.B. 362	K	Julie Woodbury	Prepared testimony
A.B. 362	L	Charles Searle	Prepared testimony
A.B. 536	M	Paul V. Townsend	Review of Governmental and Private Facilities for Children, 2010
A.B. 536	N	Paul V. Townsend	Review highlights
A.B. 536	O	Julie Butler	Prepared testimony