

**MINUTES OF THE
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES**

**Seventy-sixth Session
June 6, 2011**

The Senate Committee on Health and Human Services was called to order by Chair Allison Copenig at 9:26 a.m. on Monday, June 6, 2011, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Allison Copenig, Chair
Senator Valerie Wiener, Vice Chair
Senator Ruben J. Kihuen
Senator Ben Kieckhefer

COMMITTEE MEMBERS ABSENT:

Senator Sheila Leslie (Excused)
Senator Joseph (Joe) P. Hardy (Excused)
Senator Greg Brower (Excused)

GUEST LEGISLATORS PRESENT:

Assemblyman Jason M. Frierson, Assembly District No. 8

STAFF MEMBERS PRESENT:

Marsheilah Lyons, Policy Analyst
Risa Lang, Counsel
Paul V. Townsend, CPA, CIA, Legislative Auditor, Audit Division, Legislative
Counsel Bureau
Annette Ramirez, Committee Secretary

OTHERS PRESENT:

Marla McDade Williams, B.A., M.P.A., Deputy Administrator, Health Division,
Department of Health and Human Services

CHAIR COPENING:

We will open the hearing with Assembly Bill (A.B.) 536.

ASSEMBLY BILL 536 (1st Reprint): Revises provisions relating to background checks for certain persons who work with children. (BDR 38-201)

ASSEMBLYMAN JASON M. FRIERSON (Assembly District No. 8):

I am here to present A.B. 536. I would like to give you some historical background. Senate Bill No. 3 of the 75th Session amended the *Nevada Revised Statutes* (NRS) to establish the Legislative Committee on Child Welfare and Juvenile Justice. The committee was charged to evaluate and review issues relating to the provisions of child welfare and juvenile justice in this State. Assembly Bill No. 629 of the 74th Session and A.B. No. 103 of the 75th Session authorized the legislative auditor, Audit Division (AD), Legislative Counsel Bureau, to conduct performance audits of State facilities that house children, evaluating the safety and welfare of those children. Unannounced, representatives from the AD visited 13 facilities and conducted surveys. As a result of those audits, the AD recommended strengthening background check requirements of facilities which housed children. This bill, A.B. 536, proposes to do that.

Sections 2 through 6 address foster homes and require background investigations for persons who have unsupervised contact with a child. Persons who have a conviction for certain crimes must be terminated. The facility must keep these records and conduct background investigations every five years.

Sections 8 through 10 address the same requirements for child-care facilities. Sections 12 through 14 address the same requirements for institutions and agencies that house a child referred by juvenile court. Sections 17 through 24 address the same thing for facilities and other medical facilities that provide residential mental-health treatment to children. Section 25 requires persons subject to these measures to submit to a background check by October 1, 2011. There is a potential for someone to be hired and then be

convicted of a crime that nobody knows about later. This provides a mechanism to catch that.

There was concern from the Department of Public Safety (DPS) regarding the extent to how this could be enacted and how it would work with federal law. We have made some adjustments throughout the development of this bill and now that is corrected. There was also concern with respect to the fiscal impact on the part of the Division of Child and Family Services (DCFS), Department of Health and Human Services (DHHS). We made some changes and have been able to eliminate that concern to allow this to proceed in a way DCFS believes they can operate within their existing budget.

PAUL V. TOWNSEND, CPA, CIA (Legislative Auditor, Audit Division, Legislative Counsel Bureau):

I would like to discuss our "Review Highlights" ([Exhibit C](#)). Look at the second paragraph under "Results of Reviews." We looked at 13 facilities in this review, and we noted they could all improve their background-check processes. Many of these processes did not ensure the staff had appropriate background checks. As we looked into the law, we found there were different requirements based on the types of facilities. Employees of substance abuse treatment facilities were not required to have background checks. What was alarming is we did visit one and found there were four employees who had felony convictions, one including assault with a deadly weapon. Based on the importance of that, we made a recommendation that is in the lower left corner, "Review Highlights," [Exhibit C](#). That recommendation has been added to the bill you have, and the bill thoroughly covers all of the issues we have identified.

CHAIR COPENING:

Do you have anyone else you would ask to testify?

ASSEMBLYMAN FRIERSON:

I do not. This was the status previously, and we have worked hard to fine-tune it up to this point.

MARLA MCDADE WILLIAMS, B.A., M.P.A. (Deputy Administrator, Health Division, Department of Health and Human Services):

We had a discussion in the Assembly. We are the licensing authority for some entities that would be required to have background checks. For the current facilities, the DCFS actually collects the background checks. For the facilities

we license, we do not collect the criminal background-check information. The burden is on the licensed entity to collect the background-check information. This bill imposes a new activity for us, and we ask for consideration. We would ask that where the Health Division (HD), DHHS, is the licensing authority for any of these entities, that the employer be the one responsible for maintaining the background-check information. We would have to set up an entire new system. This would only involve a handful of facilities, so it is not a huge impact. When we inspect these facilities, we would need to ensure they have done the background checks. We have a system set up with DPS where they notify us if a person is disqualified from employment in a facility, and then we follow up directly with the employer. I realize it is very late to make an amendment.

CHAIR COPENING:

Would it have a fiscal impact for your agency to be responsible for those background checks?

MS. MCDADE WILLIAMS:

The fiscal impact would be minimal. The bigger impact is setting up the new system to deal differently with a handful of facility types.

CHAIR COPENING:

Assemblyman Frierson, do you have any thoughts?

ASSEMBLYMAN FRIERSON:

The intention was to capture this in a way to allow efficient operation without additional responsibilities.

MS. MCDADE WILLIAMS:

The sections of the bill that impact us are sections 12 and 14. Section 12 says "A public institution or agency to which a juvenile court commits a child or the licensing authority of a private institution" the HD would become the licensing authority for the private institution. I think it is something as simple as saying, "if that facility is licensed pursuant to NRS chapter 449, the employer will maintain the background-check information."

CHAIR COPENING:

Could you state the specific language you do not want in there?

MS. MCDADE WILLIAMS:

"A public institution or agency to which a juvenile court commits a child or the licensing authority of a private institution, unless that private institution is licensed pursuant to chapter 449 of the NRS." There would need to be follow-through language to say that—because right now I believe the facilities that are currently required to ensure employees have background checks are skilled nursing facilities, personal care agencies, etc. Drug and alcohol abuse facilities are not required to have those background checks. This bill would bring them in, but we want them to maintain those records and not the HD.

CHAIR COPENING:

Do you believe this language change will take care of that? Does it get repeated again in section 14?

MS. MCDADE WILLIAMS:

Yes.

MR. TOWNSEND:

We do have one concern, and perhaps legal counsel could confirm this. We had to make an amendment in the Assembly because according to the criminal history repository, the Federal Bureau of Investigation will not release the information if a private entity is involved. That is why those private entities had to be excluded and had to go with the licensing authority. That is an impediment to moving in that direction.

MS. MCDADE WILLIAMS:

That is why DPS makes these decisions for us and maintains that record system. The HD never sees them. The employer never sees them. The employer only gets notification that a person is disqualified. The HD only gets notification that a person is disqualified. I had a brief conversation with DPS, and they do not want this responsibility either. We do not want to kill this bill. It is just going to be a new system for us, and we can give it a try. If it turns out to be a very substantial workload, then we can come back to the Legislature in a future session and see how we can address the issue.

SENATOR WIENER:

Do you have any idea of what the workload would be?

MS. MCDADE WILLIAMS:

I really do not. It hinges on someone being committed. Of the drug and alcohol abuse facilities we have, it is not more than 30. Those would be the ones impacted. It is not going to be a lot; it is just going to be a different system for us. We will adopt DCFS's system for the management of those activities.

SENATOR WIENER:

Do you know what kind of fiscal impact this will have on your operation?

MS. MCDADE WILLIAMS:

The fiscal impact is a little bit smaller depending on the workload. When this gets implemented, we will be able to identify better the workload and can come back in a future session with our budget.

SENATOR WIENER:

Your recommendation is to have those people running the facilities responsible for the recordkeeping, and your oversight would ensure those records are maintained. Is that more streamlined and does it make more sense to you?

MS. MCDADE WILLIAMS:

That is how it has to work now based on what Mr. Townsend said. We are going to have to maintain the records, and we are going to be the ones telling facilities they cannot employ a certain person. The reality is that it will come in our rate-setting process in the future when we reanalyze fees we charge to facilities based on their workload.

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CHAIR COPENING:

Thank you for your willingness. You always seem to be willing to take on new tasks even though you know it impacts you and requires more work. I will close the hearing on A.B. 536. The meeting of the Senate Committee on Health and Human Services is adjourned at 9:41 a.m.

RESPECTFULLY SUBMITTED:

Annette Ramirez,
Committee Secretary

APPROVED BY:

Senator Allison Copening, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 536	C	Paul V. Townsend	Review Highlights