

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

**Seventy-sixth Session
February 28, 2011**

The Senate Committee on Health and Human Services was called to order by Chair Allison Copening at 3:33 p.m. on Monday, February 28, 2011, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 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 Copening, Chair
Senator Valerie Wiener, Vice Chair
Senator Sheila Leslie
Senator Ruben J. Kihuen
Senator Joseph (Joe) P. Hardy
Senator Greg Brower

COMMITTEE MEMBERS ABSENT:

Senator Ben Kieckhefer (Excused)

STAFF MEMBERS PRESENT:

Marsheilah Lyons, Policy Analyst
Risa Lang, Counsel
Sherry Loncar, Committee Manager
Annette Ramirez, Committee Secretary

OTHERS PRESENT:

Deborah E. Schumacher, District Judge, Department 5, Family Division, Second
Judicial District
Kevin Schiller, Director, Department of Social Services, Washoe County

CHAIR COPENING:

We will open the meeting with Senate Bill (S.B.) 167.

SENATE BILL 167: Revises provisions governing the release of certain reports of the abuse or neglect of children. (BDR 38-246)

SENATOR SHEILA LESLIE (Washoe County Senatorial District No. 1):

Joining me at the dais is Judge Deborah Schumacher, from the Second Judicial District. We are presenting S.B. 167 to you today. This bill was a topic of discussion during hearings held by the Legislative Committee on Child Welfare and Juvenile Justice during the interim. The bill addresses the release of data or information collected pursuant to *Nevada Revised Statutes* (NRS) 432B.290 for use and procedures to establish minor guardianships pursuant to NRS 159.

Due to scheduling conflicts, Judge Schumacher was unable to be present at our earlier work session to assist the Committee concerning questions about how records concerning the abuse or neglect of a child over whom a guardianship is sought might be released. We decided not to bring forward the measure as an interim Committee bill, but instead I assured Judge Schumacher the issue still needed to be aired. Judge Schumacher had some good points, so I submitted the bill as a personal bill.

DEBORAH E. SCHUMACHER (District Judge, Department 5, Family Division, Second Judicial District):

The last Legislature made amendments to NRS 159, the guardianship statute, in response to some concerns about abusive guardianships requiring someone petitioning for guardianship to accompany that petition either with a certificate of a physician or information from an entity that provides investigations to the category of persons that would be coming under guardianship. For instance, that might be the Aging Services Division, Department of Health and Human Services, for adults.

Washoe County Social Services read the language, and believed as I did, they were the entity most clearly described by the language of someone, who provides investigations and took on that responsibility. As a judge who has heard juvenile guardianships for more than a decade, this legislative change to NRS 159 was an absolute boon. Before that, there was no outside information accompanying a private individual's request for a guardianship. Request for

guardianship over a juvenile is a significant request because it essentially interferes with a parent's rights to parent their own children. The only problem that came up was when NRS 159 was changed, there was no change to NRS 432B.

There was concern expressed by the district attorney's office that by providing what NRS 159 now required, they might be violating the confidentiality provisions that were also imposed on them by NRS 432B. I have thought of this as cleanup legislation and was surprised that in my absence there was controversy over it. From where I sit, the change to NRS 432B is desirable to allow social services to comply with the change the Legislature made in the last Session to the guardianship statute. The proposed statute allows Washoe County Social Services to release the information to the litigants who are involved in the guardianship case and to the court.

The one thing still unsolved is the language in NRS 159 requiring that the report, whether it is of a physician, social services or the entity that complies with the statute, to accompany the filing of the initial petition. The individual is not supposed to come to the courthouse with the petition without this certificate or report in hand. The bill as amended does not contemplate the report being in the hands of someone who has not yet filed a petition. It takes away the concern that social services might be committing a misdemeanor with the release of it, but persons who need the report still cannot get it at the time NRS 159 requires them to have it. I have no preference whether NRS 159 were changed to state they could subsequently supply it; that would be fine by me. It does put the public between a rock and a hard place. If they want a juvenile guardianship, they have to get this documentation, and social services still cannot provide it to them at the time NRS 159 requires them to have it.

CHAIR COPENING:

Are you identifying the time in this particular statute? If so, where do we find that?

JUDGE SCHUMACHER:

Section 1, subsection 1, paragraph (i) of S.B. 167 allows the release to "A person who files a petition" The proposed language that the court and the Washoe County District Attorney provided to the Committee in the summer tried to bring in compliance with NRS 159 by indicating the information could be released to a proposed guardian. There was a concern that someone might

abuse this statute. We have been operating for two years under a court administrative order and no one has ever attempted to misuse the statute. We do not always get the Washoe County Department of Social Services providing us with a letter certifying this as an appropriate guardianship. Sometimes we get a letter saying this is not an appropriate guardianship. That is exactly what would happen if they were asked by someone who was not sincere in attempting to become a guardian. We would get one of those letters. After two years of handling these cases, I think the fear is theoretical, but not actual. If that is a true concern of this Committee, changing NRS 159 to have a subsequent filing of the report would be fine. We are doing the public a disservice if we run them around in circles, requiring one thing under one statute and then not allowing them to have it under another.

KEVIN SCHILLER (Director, Department of Social Services, Washoe County):
I want to put on record the Department's support of S.B. 167 as amended. We have been in a dilemma about providing the information to the prospective guardians as we move forward. This sharing of information has enabled us to use best practices and consider the best interests for children and families who come before the court. I would highlight that prior to the last Session, one of the issues the court had was being at a disadvantage to obtain that information in order to make decisions.

SENATOR WIENER:
Is there an amendment coming that I do not know about?

SENATOR LESLIE:
I have the same question. It sounded like we need to match up NRS 159 with NRS 432B. Do you have a preference?

JUDGE SCHUMACHER:
My preference is that the agency be permitted to provide the information to a proposed guardian. I believe the agency is absolutely capable of determining if someone is attempting to misuse it. If we change NRS 159 to say it can be subsequently provided, that will lead to delays because it is two sets of paperwork and the public has to come back to the court again. Sometimes these are emergency guardianships. I think the public would be best served by the agency providing the information to the proposed guardian. They would file the information and the guardianship petition, so the court can review it the same day or next day.

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SENATOR WIENER:

How often do you see these emergency situations where this is the best way to address these concerns?

JUDGE SCHUMACHER:

At least half a dozen times a week.

SENATOR WIENER:

That is pretty substantial. Those are children.

CHAIR COPENING:

We will be waiting for your amendment, and we will schedule that for a further work session. We will close the hearing on S.B. 167.

I would like a motion to introduce a bill draft request (BDR), BDR 40-193.

BILL DRAFT REQUEST 40-193: Revises provisions relating to reports of sentinel events and related events. (Later introduced as [Senate Bill 209](#).)

SENATOR WIENER MOVED TO INTRODUCE BDR 40-193.

SENATOR LESLIE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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I would like a motion to introduce BDR 40-564.

BILL DRAFT REQUEST 40-564: Revises provisions relating to food establishments. (Later introduced as [Senate Bill 210](#).)

SENATOR WIENER MOVED TO INTRODUCE BDR 40-564.

SENATOR KIHUEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR COPENING:

There being no further business to come before the Senate Committee on Health and Human Services, the meeting is adjourned at 3:47 p.m.

RESPECTFULLY SUBMITTED:

Annette Ramirez,
Committee Secretary

APPROVED BY:

Senator Allison Copenig, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Health and Human Services

Date: February 28, 2011

Time of Meeting: 3:33 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster