

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Seventy-sixth Session  
March 14, 2011**

The Senate Committee on Judiciary was called to order by Chair Valerie Wiener at 9:04 a.m. on Monday, March 14, 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 Valerie Wiener, Chair  
Senator Allison Copening, Vice Chair  
Senator Shirley A. Breeden  
Senator Ruben J. Kihuen  
Senator Mike McGinness  
Senator Don Gustavson  
Senator Michael Roberson

**STAFF MEMBERS PRESENT:**

Linda J. Eissmann, Policy Analyst  
Bradley A. Wilkinson, Counsel  
Paul V. Townsend, Legislative Auditor, Audit Division  
Judith Anker-Nissen, Committee Secretary

**OTHERS PRESENT:**

Keith G. Munro, Assistant Attorney General, Office of the Attorney General  
Kareen Prentice, Ombudsman for Victims of Domestic Violence, Office of the Attorney General  
Brett Kandt, Special Deputy Attorney General, Executive Director, Advisory Council for Prosecuting Attorneys, Office of the Attorney General  
Susan Meuschke, Executive Director, Nevada Network Against Domestic Violence  
Mike Sprinkle, Vice Chair, Nevada Council for the Prevention of Domestic Violence

Senate Committee on Judiciary  
March 14, 2011  
Page 2

Mark B. Jackson, District Attorney, Douglas County; President, Nevada District Attorneys Association  
Kim Phillips, Southern Nevada Domestic Violence Task Force  
Verna J. Stringer, President, Delta Sigma Theta Sorority, Inc., Las Vegas Alumnae Chapter  
Christine Schwamberger  
Constance J. Brooks, Senior Management Analyst, Administrative Services, Office of the County Manager, Clark County  
Teralee Burbank  
Bryan A. Nix, Coordinator, Victims of Crime Program, Hearings Division, Department of Administration

CHAIR WIENER:

I will open the hearing on Senate Bill (S.B.) 66.

**SENATE BILL 66**: Revises provisions relating to multidisciplinary teams to review the deaths of victims of crimes that constitute domestic violence. (BDR 18-268)

KEITH G. MUNRO (Assistant Attorney General, Office of the Attorney General):  
Senate Bill 66 is part of the Attorney General's ongoing efforts to improve Nevada's response to domestic violence, ensure victim safety and improve offender accountability. Specifically, it authorizes the Attorney General to organize a statewide multidisciplinary team to review the deaths of victims of crimes that constitute domestic violence and expands the existing authority of a court or local agency to organize such teams. This team will only review adjudicated cases.

KAREEN PRENTICE (Ombudsman for Victims of Domestic Violence, Office of the Attorney General):

On October 1, 2010, the Office of the Attorney General held a statewide Domestic Violence Fatality Review Summit. The summit brought together professionals statewide to address the issue of domestic violence fatalities. The attendees urged the Attorney General to move forward with a statewide domestic violence fatality review team.

Statistics on domestic violence in Nevada and nationwide are disturbing; they reveal domestic violence continues to be a significant problem in our State.

According to the Violence Policy Center, Nevada consistently ranks in the top five states of women murdered by men.

Victims of domestic violence comprise the largest victim category in Nevada, although domestic violence is significantly underreported and statistics are incomplete. The Department of Public Safety *Crime in Nevada 2009* reported 29,091 female victims and 12,000 children present at incidents of domestic violence.

The Nevada Network Against Domestic Violence reports 37,495 victims received services from domestic violence programs in 2009. Over 16,000 children of these victims also received services. These statistics demonstrate that the State has a critical interest in reducing the number of incidents of domestic violence, as domestic violence generally represents a pattern of behavior which escalates in severity and frequency and if unchecked, can lead to homicide.

Domestic violence fatality review is a process that examines systemic interventions into known instances of domestic violence occurring in the family prior to death. Domestic violence is significantly underreported due to the nature of the relationship between the batterer and the victim. For each instance domestic violence is reported and the batterer is arrested and prosecuted, there are multiple instances where the violence goes undetected.

Domestic violence fatality review seeks to improve the systemic response to avert future domestic violence deaths and to develop recommendations for coordinated community prevention and intervention initiatives.

Section 1 of S.B. 66 authorizes the Attorney General to organize a multidisciplinary team to assist local authorities. The team also reviews domestic violence-related deaths on a statewide platform with the underlying objectives of prevention, preserving the safety of battered women, holding perpetrators accountable and assessing whether the victim utilized local or statewide services.

The statewide Fatality Review Initiative under the Office of the Attorney General's purview brings together the necessary parties to solve a statewide problem and provide data necessary to better address the continued problem of domestic violence in Nevada.

The section provides for the appointment of necessary team members, the adoption of a written protocol for the team's operation, the confidentiality of information shared by or provided to the team members, and the issuance of a report on its findings to the Attorney General that will be made available to the public.

Section 2 expands the existing authority of a court or local organization to organize such teams under *Nevada Revised Statute* (NRS) 217.475. This section updates the statute to reflect the best practices in domestic violence fatality review, including the authority to obtain relevant information and records concerning the victim and any person in contact with the victim and to meet with other teams, persons, agencies and organizations who may have information relevant to the team's review.

Section 3 amends NRS 432B.290 authorizing teams to receive data and information from certain reports and investigations concerning the abuse or neglect of children, which may relate to the fatality under review.

Section 4 amends NRS 440.170 requiring the State Board of Health to allow teams to use death certificates in the custody of the State Registrar of Vital Statistics in the same manner the Board allows a multidisciplinary team to review the death of a child under existing law.

Specifically, S.B. 66 enables the Office of the Attorney General to organize a multidisciplinary team to review deaths of victims of crime that constitute domestic violence. This team will review domestic violence fatalities statewide and work with established teams in Washoe County and Clark County.

In 1997, NRS 217.475 authorized establishing local fatality review teams. This bill will allow the Attorney General to form a statewide fatality review team to expand and enhance the work of local teams.

Washoe County has a team actively reviewing domestic violence fatalities. Southern Nevada is in the process of reestablishing a team. The data collected by all three entities will give a complete picture of domestic violence fatality and balance the workload. Overall, domestic violence fatality review teams in other states have the following objectives: Prevent future domestic violence and domestic homicide; provide safer provisions for battered women and their children; hold the perpetrators of domestic violence, multiagencies and

organizations who come into contact with the parties accountable; and enhance a community's coordinated response. Fatality review provides an opportunity for a diverse, multidisciplinary group to come together with professionals and community members to meet on a regular basis and discuss issues of system response and social change.

We request the Committee approve S.B. 66 in order to increase domestic violence victim safety and offender accountability. Fatality review is proven as an effective tool in improving system response to domestic violence and saving lives.

There are many people prepared to testify today in support of S.B. 66, prosecutors, advocates, survivors and medical professionals.

CHAIR WIENER:

On page 3, section 1, subsection 7, line 36 states: "A multidisciplinary team organized or sponsored pursuant to this section may request" records information from the victim or parties who have had contact with the victim. What if someone refuses to provide information? Is this voluntary cooperation or is there some way to secure this information?

BRETT KANDT (Special Deputy Attorney General, Executive Director, Advisory Council for Prosecuting Attorneys, Office of the Attorney General):  
It is a voluntary process. There is no compulsory requirement that a person must provide information or records in response to a request from a team.

CHAIR WIENER:

Are you finding the cooperation to be substantial in the Washoe County and Clark County teams?

MR. KANDT:

The local teams have indicated they would appreciate the additional assistance the Office of the Attorney General could provide from a statewide team.

CHAIR WIENER:

Until S.B. No. 87 of the 71st Session passed in 2001, the definition of victim was one who was abused or harmed directly; the children were not included for compensation and services.

SENATOR BREEDEN:

On page 4, section 1, subsection 11 states a report would be submitted and the Attorney General shall make the report available to the public. How long does it take to obtain a report?

MR. KANDT:

The purpose is to gain information. We will gather and consolidate information at the local level through existing teams into one report, giving us a statewide view of the status of domestic violence incidents and resource issues.

The report is issued on an annual basis and would not contain personal information regarding specific cases but rather the data which identifies those trends and resource issues.

SENATOR BREEDEN:

How will you make the information available, on a Website?

MR. KANDT:

Yes, we would publish the report on our Website. In addition, if someone requests a hard copy, it will be provided to them.

SENATOR GUSTAVSON:

Does the report include false claims by both genders? The bill shows the number of women and children abused. I would like to have men included. In a majority of the cases, men are the aggressors or cause of incidents, but I want all bases covered.

MR. MUNRO:

Men are included. As to false claims, these are adjudicated cases by a court. When our budget is so tight, it is a group such as this that helps us gain information about these types of events and allow us to fine-tune our dollars and utilize resources the best we can. We will never prevent these crimes but will stop it as much as we can.

MR. KANDT:

These review teams are looking at domestic violence fatalities—not every incident of a domestic violence report—which are the largest victim-crime category in the State. This is somebody dead, and we want to look at the

history that leads up to the fatality, how the system handled it, when the offender interfaced with the system and how we can prevent future deaths.

SENATOR MCGINNESS:  
Do you have any idea what this might cost?

MR. MUNRO:  
We are going to utilize existing resources.

SUSAN MEUSCHKE (Executive Director, Nevada Network Against Domestic Violence):

We are in support of S.B. 66. I will read from my written testimony which includes a listing of violence related deaths in 2009 ([Exhibit C](#)).

MIKE SPRINKLE (Vice Chair, Nevada Council for the Prevention of Domestic Violence):

We are in support of S.B. 66. I will read from my written testimony ([Exhibit D](#)).

MARK B. JACKSON (District Attorney, Douglas County; President, Nevada District Attorneys Association):

I am the Douglas County District Attorney and the President of the Nevada District Attorneys Association. I am here serving in both capacities, showing our support for S.B. 66.

Prior to being elected District Attorney, I was a Deputy District Attorney and handled domestic violence cases. In running for my first term of office, I labeled domestic violence as the No. 1 issue in Douglas County. In the past ten years, every first-degree murder case in Douglas County has involved domestic violence. Victim safety is the No. 1 priority of anyone trying to combat domestic violence; No. 2 is accountability of the offender.

One particular case was a housekeeper at a hotel-casino at Lake Tahoe. She was a victim of domestic violence and it turned into stalking once she left her husband. The husband conned an individual into renting a room on the sixth floor where the victim was a housekeeper. The perpetrator sneaked into the casino and hid in the room; when the victim came into the room, he attacked and stabbed her over 50 times, killing her.

Part of the safety plan is to develop a safety plan for anyone in that line of work because of the potential for repeated domestic violence and stalking. That needs to be shared on a statewide level. A fatality review team would provide a plan to be shared across the State. This is a real issue.

Senator Gustavson asked how these reports prevent future domestic violence—it would have gone a long way to prevent the murder in this particular case.

KIM PHILLIPS (Southern Nevada Domestic Violence Task Force):

We are in support of S.B. 66. The fatality review committee would be able to contribute answers to why Nevada is No. 1 in the Nation in domestic violence-related homicides. The Committee would be a knowledge-building committee. It takes courageous leadership to look at our laws, policies and systems, identify the gaps and make recommendations to improve the systematic responses—not only to prevent future deaths, but combat domestic violence altogether.

VERNA J. STRINGER (President, Delta Sigma Theta Sorority, Inc., Las Vegas Alumnae Chapter):

On April 16, the Las Vegas Alumnae Chapter of Delta Sigma Theta Sorority, Inc., will have a community forum on domestic violence. We are asking our community partners in Las Vegas to assist us with their attendance and support. Together we can educate the public on domestic violence. This event is called Standing Together Oppressing Misuse of Power or STOMP.

The members of the Las Vegas Alumnae Chapter lost our beloved sister on April 16, 2010, to domestic violence. We support S.B. 66 to obtain information for everyone to help women, children and men involved in episodes of domestic violence.

CHRISTINE SCHWAMBERGER:

I have a proposed amendment to S.B. 66 ([Exhibit E](#)). My proposed amendment will raise the issue of the link of domestic violence with animal abuse. Abusers use beloved pets of women and children to manipulate and coerce victims of domestic violence. Sexual abusers threaten to kill pets to keep the children victims quiet. Children are willing to endure sexual abuse to protect their pets.



In NRS 171.1225, subsection 1, paragraph (b), subparagraph (5), [Exhibit E](#), I have indicated in red to include the protective order for animals advising victims they can also obtain protective orders to stop abuse of animals either owned by the victims or by the abusers.

Also in subsection 1, paragraph (b), subparagraph (4) of [Exhibit E](#), the law provides you may seek a court order for protection of you, your minor children or your pets.

Finally, subsection 2, paragraph (e), subparagraph (7) of [Exhibit E](#) reflects the update including injuring or killing an animal in the definition of domestic violence.

My proposed amendment, [Exhibit E](#), is for the protection of pets, but I want to stress to the Committee it really is not about the pets. The pets are a canary in the coal mine in domestic violence cases. Typically, studies show 70 percent of the families who have child abuse also have animal abuse.

I have provided you with a copy of A.B. No. 282 of the 74th Session ([Exhibit F](#)) which was enacted in 2007. This bill included in the definition of domestic violence the intentional abuse of injuring or killing pets. Also, victims of domestic violence were allowed to obtain protective orders for pets either owned by the victim or the abuser.

I request the Committee consider passing these technical amendments because the increased definition of domestic violence, including pet abuse, has not been reflected in NRS 171.1225. This statute requires peace officers to inform victims of domestic violence of certain rights and protective orders they may obtain.

SENATOR ROBERSON:

I appreciate your testimony and am cognizant of the link between animal abuse and domestic abuse; it is a real concern. I would like to hear from the representative of the Attorney General's Office regarding its position on this amendment.

CONSTANCE J. BROOKS (Senior Management Analyst, Administrative Services, Office of the County Manager, Clark County):

We are neutral on a majority of the provisions as it relates to S.B. 66, but overall we feel the intent is worthwhile and definitely needed given the high number of victims experienced in Clark County.

However, the bill needs minor amendments to comply with the confidentiality provision of the federal funding requirements under the Child Abuse Prevention and Treatment Act, otherwise known as CAPTA. This is in recognition of the obvious nexus between child abuse and domestic violence. The CAPTA requires participating states enact laws to preserve the confidentiality of child protective services, otherwise known as CPS, records. However, CAPTA grants discretion to the states enacting laws to allow the disclosures of the confidential CPS records to the enumerated parties to advance legitimate state purpose.

The CAPTA requires states establish civil sanctions for violating the confidentiality provisions for the members of the multidisciplinary teams. Here, S.B. 66 establishes multidisciplinary teams for legitimate state purpose of reviewing the effects of domestic violence. Therefore, it is permissible for Nevada to grant a statutory exception to the confidentiality law for the members of the domestic violence fatality multidisciplinary team. However, S.B. 66 provides broad civil and criminal immunity for the members of the multidisciplinary team for activities associated with the review of the domestic violence victim. This is not permissible under CAPTA.

Therefore, Clark County is recommending an amendment ([Exhibit G](#)) to S.B. 66 to impose a similar type of civil penalty on the domestic violence fatality multidisciplinary team as that imposed on the child fatality multidisciplinary team under NRS 432B.4095. The language in both sections 1 and 2 needs to be modified. We have provided language for NRS 432B.4095 but ask that the Legislative Counsel Bureau (LCB) help us determine the exact language and how it should be modified.

TERALEE BURBANK:

It would be an extreme injustice to my good friend and her family if I did not say why I am in favor of S.B. 66. Sarah Wayson is listed on the bottom of page 3 of the Nevada Network Against Domestic Violence pamphlet, [Exhibit C](#). She was one of my best friends. I talk to Sarah's mother regularly; I know what the family goes through. I know what Sarah went through because the month

before she died, she and I went on a retreat. I know the information I have is paramount to helping the team understand what happened and what led up to the death of Sarah. Her boyfriend had stopped taking antidepressants. I know intimate details and know this would not be something her mother or sister would be comfortable in sharing.

And yet, if these teams were able to question those close to the victims, it would bring them knowledge and information that could lessen—and prevent in certain cases—this pain and suffering. It could possibly help provide funding in areas that would help women prevent these instances in their lives.

MR. MUNRO:

As to Ms. Brooks' proposed amendment, [Exhibit G](#), we have no objection to the concept, but would like to see the final language.

Ms. Prentice indicated she will contact Ms. Schwamberger. Ms. Schwamberger's testimony was strong, thoughtful and thorough. Ms. Schwamberger's proposed amendment, [Exhibit E](#), might need a longer, more thorough discussion on the link of establishing a team to the proposed amendment. I cannot object to her testimony because I agree with it, but I do think it will be better left to another day or bill.

CHAIR WIENER:

I cannot object either, as I have brought to Carson City four cats who are my family. I certainly have a strong connection with them and understand these ties. Mr. Munro, you will be working on both to assure the language or appropriate vehicles.

MR. MUNRO:

Correct.

CHAIR WIENER:

I will close the hearing on [S.B. 66](#) and open the hearing on [S.B. 67](#).

[SENATE BILL 67](#): Revises provisions governing the disbursement of money from the Fund for the Compensation of Victims of Crime. (BDR 16-431)

BRYAN A. NIX (Coordinator, Victims of Crime Program, Hearings Division, Department of Administration):

We are in support of S.B. 67. The purpose of this bill is to delete language in NRS 217.260, which has been interpreted to require the Victims of Crime Program (VOCP) to estimate quarterly expenses and claims, and then pay those claims proportionately to the available revenue.

This bill was put into language 25 years ago at the request of the State Budget Director. At that time, the VOCP had no staff; it had claims, and the procedure was to gather all of the hospital, medical and other bills, divide them up and pay them proportionately according to the available funding.

Over time, the program expanded. Twenty years ago, the program was funded and a staff established; it became a State agency. Prior to that time, it was operated out of the State Budget Division. After becoming part of a State agency, the program paid claims in a manner other than dividing the revenue to the existing claims. Extensive policies were established and adopted by the State Board of Examiners.

This issue became a problem in an audit, and LCB determined the agency should be applying the statute more strictly to the wording. The agency stated the policies adopted allowed more flexibility in the payment of the claims. To resolve the discrepancy on the interpretation of the bill, the agency is requesting language be deleted and the State Board of Examiners adopt the policies in existence for payment of claims. That power is in statute in two separate sections: NRS 217.130 and 217.150. The agency has the power to adopt regulations and have done so. Under those policies, the agency had the ability to address the needs of the victims in a broader manner than under a strict application of NRS 217.260.

I have submitted written testimony ([Exhibit H](#)), including charts to show how claims would be paid under the strict interpretation of the statute versus how claims are paid under the policies adopted by the Board of Examiners. As you can see from the charts and written testimony, [Exhibit H](#), the difference is night and day on the kind of assistance that we can provide to victims.

The issue should have been addressed previously and adopted as a policy rather than a statute because NRS 217.130 empowered the Board 25 years ago to do so. But for whatever reason, the Budget Director requested a statute and it was

enacted. The current Budget Director and the State Board of Examiners support the bill and request you eliminate the specific language and allow policies adopted by the Board to determine how claims are paid by the VOCP.

CHAIR WIENER:

In 1985, NRS 217.260 was enacted to ensure the need to know how the funds would be used and maintain the integrity of the account to guarantee the fund would remain in balance. You brought a measure last Session to this Committee—if not the same language, it was very similar—to align statute with the practices and policies the agency had engaged through policy development. One of my concerns previously was working with a statute, however old and moving around, to develop policies and practices which were not aligned with the statute.

Mr. Townsend, if you would come forward and explain the audit process, what auditing does, what your intentions are as a LCB Auditor and how agencies chose to go through the audit process, etc.

PAUL V. TOWNSEND (Legislative Auditor, Audit Division):

As LCB staff, we are neutral on the bill. The bill did arise out of an audit. How we select agencies to audit is a biennial audit plan, which is then approved by the Legislative Commission. We identify agencies based on a risk assessment process, which will include how long it has been since the last audit; the amount of funds flowing through the audit; the sensitivity, which the VOCP has; and then we do the audits on a cyclical basis.

In 2007, we did an audit for the Hearings Division and VOCP. As we looked at the audit, the process for paying claims to the victims was undocumented and neither following the existing policy, which had been adopted by the State Board of Examiners, nor NRS. Our recommendation was to pay victims' claims in accordance with NRS 217.260 and Board of Examiners' policy. When we make a recommendation on the audit, the agencies respond, and then we have a follow-up process where they come back to the Legislative Commission Audit Subcommittee. We then check and see how the progress is coming on the audit's recommendations. Through the follow-up process, we learned a new policy had been adopted by the Board of Examiners which more closely mirrored the actual practice taking place. However, the policy was not consistent with the NRS, which was confirmed through an opinion given by LCB. This is what brings us here today. Since it did involve an NRS, it is a policy decision for the

Legislature. That is why the Chair of the Audit Subcommittee wanted to continue to pursue the issue and get it resolved.

CHAIR WIENER:

I have a proposed amendment to S.B. 67 ([Exhibit I](#)).

BRADLEY A. WILKINSON (Counsel):

I will first explain what the bill states, and then will refer to what the proposed amendment, [Exhibit I](#), will do. The bill eliminates the requirement that claims be disbursed in the same manner as other claims against the State are paid. It eliminates the requirement for the Board to do quarterly estimates of revenues and anticipated expenses, and most important, it eliminates the requirement the claims be reduced proportionately, in the same proportion as expenses exceed the revenue, and instead provides the claims to be paid in accordance with rules and regulations adopted by the Board.

The proposed amendment, [Exhibit I](#), reinstates the requirement that money in the fund be disbursed in the same manner as other claims against the State are paid; it also reinstates the requirement that the Board estimate quarterly revenues and anticipated expenses. The requirement that the claims be reduced proportionately is eliminated in the proposed amendment, [Exhibit I](#), as well with the requirement contained in the bill that the claims be paid in accordance with the rules and regulations adopted by the Board. However, there are some specific things added into the statute that those rules and regulations must include, which are the requirements that claims must be categorized as to their priority, and the highest priority must be paid in whole or in part before other claims. The quarterly estimates would continue to be made of revenues and anticipated expenses, but claims would not have to be reduced proportionately based on those estimates.

MR. NIX:

This fits within how we pay claims and envision our process. We do not plan on changing our current review; we do a quarterly review of our revenues and claims expenses, like the statute provides. We will continue that process as we build our claims process around the quarterly review. The difference in what you have captured is the elimination of mandatorily paying all claims according to that percentage. This language accomplishes our goal of having flexibility and authority vested in the State Board of Examiners to determine how these claims should be paid.

Senate Committee on Judiciary  
March 14, 2011  
Page 15

CHAIR WIENER:

You will note there are some statutory mandates to be considered in making those decisions.

I will close the hearing on S.B. 67.

SENATOR ROBERSON MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 67 WITH PROPOSED AMENDMENT 5760.

SENATOR BREEDEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WIENER:

The meeting is adjourned at 10:09 a.m.

RESPECTFULLY SUBMITTED:

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Judith Anker-Nissen,  
Committee Secretary

APPROVED BY:

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Senator Valerie Wiener, Chair

DATE: \_\_\_\_\_

<b><u>EXHIBITS</u></b>			
<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
S.B. 66	C	Susan Meuschke	Written Testimony
S.B. 66	D	Mike Sprinkle	Written Testimony
S.B. 66	E	Christine Schwamberger	Proposed Amendment
S.B. 66	F	Christine Schwamberger	Copy of A.B. No. 282 of the 74th Session
S.B. 66	G	Constance J. Brooks	Clark County Proposed Amendment
S.B. 67	H	Bryan A. Nix	Written Testimony
S.B. 67	I	Senator Valerie Wiener	Proposed Amendment 5760 to Senate Bill No. 67