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

Seventy-Seventh Session
May 3, 2013

The Committee on Health and Human Services was called to order by Vice Chair Ellen Spiegel at 12:37 p.m. on Friday, May 3, 2013, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at nelis.leg.state.nv.us/77th2013. 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 Marilyn Dondero Loop, Chair
Assemblywoman Ellen B. Spiegel, Vice Chair
Assemblywoman Teresa Benitez-Thompson
Assemblyman Wesley Duncan
Assemblyman Andy Eisen
Assemblywoman Michele Fiore
Assemblyman John Hambrick
Assemblyman Pat Hickey
Assemblyman Joseph M. Hogan
Assemblyman Andrew Martin
Assemblyman James Oscarson
Assemblyman Michael Sprinkle
Assemblyman Tyrone Thompson

COMMITTEE MEMBERS ABSENT:

Assemblywoman Peggy Pierce (excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Kirsten Bugenig, Committee Policy Analyst
Risa Lang, Committee Counsel
Terry Horgan, Committee Secretary
Macy Young, Committee Assistant

OTHERS PRESENT:

Valerie Wiener, Chair, Interim Legislative Committee on Child Welfare and Juvenile Justice
Denise Tanata Ashby, representing the Children's Advocacy Alliance
Jill Marano, Deputy Administrator, Family Programs, Division of Child and Family Services, Department of Health and Human Services
Amber Howell, Administrator, Division of Child and Family Services, Department of Health and Human Services
Kevin Schiller, Director, Washoe County Social Services
Lisa Ruiz-Lee, Director, Family Services, Clark County
John T. Jones Jr., representing the Nevada District Attorneys' Association
Brigid J. Duffy, Chief Deputy District Attorney, Juvenile Division, Office of the District Attorney, Clark County
Jon Sasser, representing the Legal Aid Center of Southern Nevada and Washoe Legal Services
Melinda Wishart, Child Advocacy Attorney, Washoe Legal Services

Vice Chair Spiegel:
[Roll was taken. Committee rules and protocol were explained.]

I will now open the hearing on Senate Bill 97 (1st Reprint).

Senate Bill 97 (1st Reprint): Revises provisions relating to hearings concerning children who are removed from their homes. (BDR 38-69)

Valerie Wiener, Chair, Interim Legislative Committee on Child Welfare and Juvenile Justice:
This committee met over a period of several months. One charge of the committee was to look at Senate Concurrent Resolution No. 5 of the 76th Session, which called for an interim study on the system and laws governing the protection of children in Nevada at *Nevada Revised Statutes* (NRS) Chapter 432B, in consultation with representatives of the system of child welfare. That includes child welfare agencies and organizations that provide services as well as the children and families who receive these services.

Because S.C.R. No. 5 of the 76th Session did not go forward as an interim study, it was the charge of the Interim Child Welfare and Juvenile Justice Committee to address these concerns and we did, not directly as the committee itself but with the efforts of Denise Tanata Ashby, Director of the Children's Advocacy Alliance. She worked with six working subgroups that dealt with the vastness of NRS Chapter 432B. The subgroups dealt with the protection of children from abuse and neglect. The efforts there were to make the chapter more consistent with federal law. She dealt with ensuring that current practices in child welfare and corresponding statutes and regulations were aligned with efforts to promote the goal of family preservation and reunification.

There were six groups that worked off-line, and each meeting Denise made a report as to the progress of the working groups. She provided us with about four pages of recommendations. Our committee looked at what measures we believed would be opportunities in this legislative session for discussion and potential passage. The Interim Legislative Committee on Child Welfare and Juvenile Justice adopted 14 of the recommendations. Six of the ten measures coming out of the committee deal with child welfare.

Senate Bill 97 (1st Reprint), Senate Bill 98 (1st Reprint), Senate Bill 99 (1st Reprint), and Senate Bill 176 (1st Reprint) are four of the six bills we sent to this legislative session. This particular measure, S.B. 97 (R1), deals with some technical changes regarding the child's address at the time of removal and providing certain persons with the "right" to be heard instead of an "opportunity" to be heard.

Denise Tanata Ashby, representing the Children's Advocacy Alliance:
[Ms. Ashby provided written testimony concerning S.B. 97 (R1), S.B. 98 (R1), and S.B. 99 (R1) on behalf of the workgroup (Exhibit C).]

In an effort to respond to S.C.R. No. 5 of the 76th Session, the Children's Advocacy Alliance began convening community partners and stakeholders in December 2011 to address revisions to NRS Chapter 432B in an effort to improve the laws that govern child welfare in the state of Nevada. The workgroup, which we referred to as the 432B Revisions Workgroup, was comprised of representatives from across the state including all three child welfare agencies, the various district attorneys, special public defender, Attorney General's office, legal aid, the courts, representatives from academia, various community advocates, and private providers including foster care agencies, mental health providers, and other community services providers.

The workgroup met on a regular basis throughout the interim and reported those recommendations to the Interim Legislative Committee on Child Welfare and Juvenile Justice. I am speaking today on behalf of the workgroup. Given the diversity of representatives on the workgroup with their varying backgrounds and perspectives, not all the provisions in all these bills have unanimous support of the workgroup; therefore, individual members of the workgroup and other agencies may be providing separate testimony to share their support, opposition, and/or suggested amendments to these bills.

In regard to S.B. 97 (R1), this is clarifying language containing some technical changes (Exhibit D). Section 1 is requesting a clarification in NRS 432B.510, subsection 4, paragraph (b) to state that petitions alleging that a child is in need of protection set forth the address of the primary residence of the child at the time of removal. The purpose of this recommendation is to provide clarity in the language to ensure that this provision is not interpreted to mean the address of the child's foster home or other protective custody placement.

Sections 3 and 4 incorporate several provisions that will bring Nevada into compliance with federal laws. Section 3 provides that parents, adoptive parents, siblings, relatives, and foster parents have a right, not just an opportunity, to be heard at hearings regarding placement of a child. Additionally, section 4 outlines additional considerations the court must make in reviewing any plan for the permanent placement of a child, including out-of-state placements, and ensuring the provision of appropriate services for youth who are aging out of the system. The 432B Workgroup supports this bill as amended with no opposition.

Vice Chair Spiegel:
Do we have any questions for Ms. Tanata Ashby? [There was no response.] I have a question concerning section 1, subsection 4, the primary residence at the time of removal. What happens over time if there is no longer any tie between that child and that primary residence? Maybe the family has moved once or twice and there is no longer any connection. Would that still be the appropriate address to use in the records?

Jill Marano, Deputy Administrator, Family Programs, Division of Child and Family Services, Department of Health and Human Services:
The address at the time of removal is the address used as a way to recognize and identify the child. We would also always be recording a current address. We would not run the risk of not being able to track the child, if that is part of the concern.

Vice Chair Spiegel:
Are there any other questions?

Assemblyman Hogan:
I want to state my appreciation to Ms. Wiener on behalf of my constituents. The contribution you have made by bringing these complicated, difficult, but very vital pieces of legislation over the years to the attention of the Legislature has been a very great service.

Assemblyman Hambrick:
Looking at section 1, subsection 4, paragraph (b), if the parental rights have been terminated for a child in foster care, would the primary residence at the time of removal still be listed?

Jill Marano:
This is related to the petition, so it is only relevant at the very beginning of the case. The record would be updated as the child moved and as new addresses became relevant.

Assemblyman Sprinkle:
My question is in regard to the change in wording from an "opportunity" to a "right." Is this just to get in line with other regulations, or did something specific happen that is necessitating this word change?

Jill Marano:
This is related to a federal review for our Title IV-E of the Social Security Act requirements. When the federal government reviewed our practices and laws they found that, while we give an opportunity for people to be heard, the actual federal law requires they have a right to be heard. We are just making this change to be in alignment with the Social Security Act.

Vice Chair Spiegel:
We will now hear testimony in support of S.B. 97 (R1).

Amber Howell, Administrator, Division of Child and Family Services, Department of Health and Human Services:
I want to speak in support of this bill. As Ms. Marano indicated, we received a federal review on our Title IV-E funding and they gave us two years to come into compliance. This will help us accomplish that so we do not jeopardize any of our foster care maintenance payments.

Vice Chair Spiegel:
Is there any further testimony in support? [There was no response.] We will move to opposition. Is there anyone testifying in opposition? [There was no response.] Is anyone testifying as neutral? [There was no response.] With that, I will close the hearing on S.B. 97 (R1). The next bill we are going to hear is Senate Bill 99 (1st Reprint).

Senate Bill 99 (1st Reprint): Provides for the protection of children in the child welfare system from identity theft. (BDR 38-65)

Valerie Wiener, Chair, Interim Legislative Committee on Child Welfare and Juvenile Justice:
Senate Bill 99 (1st Reprint) is one of ten measures we sent forward to this legislative session. Six of those measures deal with child welfare, and this is one of those bills. This bill was recommended by the workgroup Denise Tanata Ashby facilitated and would address concerns of identity theft. There is a proposed amendment (Exhibit E) that I worked on with the advocate for the amendment. I am in full support of this amendment on behalf of the committee to ensure that the protections are in place in the way they can be administered.

Assemblyman Thompson:
Would this be optional for the child? Would that child even want the agency to inquire on his behalf? Would it be automatic? Also, who would fund this?

Jill Marano, Deputy Administrator, Division of Child and Family Services, Department of Health and Human Services:
This is another bill that aligns state law with federal requirements. In 2011, the federal government passed a child welfare bill called the Child and Family Services Improvement and Innovation Act. That act required credit checks for every child in foster care once they turn 16, and every year thereafter until they age out. The feds did not indicate that it is optional, so we have not put it that way in the law. As the child welfare agency is the guardian of the child, it is my initial thought that they would have the right to make that decision about whether they are going to comply.

Assemblyman Thompson:
I ask because I am a court-appointed special advocate. I have been working with many children who are aging out. They are experimenting with independent living and making decisions as adults. I recall cases of mine in which the children may or may not agree with this. I understand we are trying to comply with federal laws, but instead of saying it must happen, I wonder if there can be some flexibility.

Jill Marano:
An amendment we are proposing may address this issue and the level of engagement that a child has to have in this process (Exhibit E). It would change the requirement in the original bill that the child welfare agency remain involved with the child until this issue is resolved even after the case is closed. We had similar concerns because oftentimes children do not want to be involved with the child welfare agencies any more than they have to. Our proposed amendment allows the agency to give the child all the information he needs to address the issue, and then it is left up to the child to continue to address that problem.

Assemblywoman Fiore:
Concerning federal credit reporting mandates, do you not have to be 18 in order to obtain credit?

Jill Marano:
You do to get credit; however, things can still come up on your credit report before you turn 18. An extreme instance would be a parent using a child's social security number when making a deposit to turn their electricity back on after not paying their bill. Over time, those bills add up and are on that child's credit.

Assemblywoman Fiore:
Every time you run a credit report, it becomes a negative against your credit. I want to make sure we are not hindering children and putting marks on their credit unnecessarily.

Jill Marano:
When we run the credit report for a child, if there is no record of credit, it comes up as "no record." It is my understanding that those are not counted against the child and that the only time it would be noted that a credit report was checked was if there was some sort of discrepancy or error. In those instances, we need to know because then we can engage and try to resolve whatever the issue is.

Assemblywoman Fiore:
I urge you to follow up with the federal laws, because I believe that is incorrect. Anytime you obtain someone's credit report, it is a negative toward it.

Denise Tanata Ashby, representing the Children's Advocacy Alliance:
[Ms. Ashby's written testimony (Exhibit C) included S.B 99 (R1). She also submitted a written explanation of S.B. 99 (R1) (Exhibit F). Both documents are on behalf of the workgroup.]

This is equivalent to you, as an individual, asking an entity to check your own credit. That does not count against your credit history. The only time it would count against your credit history is if a creditor checks your credit report. This is equivalent to an individual checking her own credit.

Vice Chair Spiegel:
Are there questions from any other Committee members? I see there are a few, but earlier you were talking about an amendment. Could you walk us through it, please?

Jill Marano:
The proposed amendment (Exhibit E) is found under section 1, subsection 3, paragraph (c). The current language says:

> Continue to make diligent efforts to resolve the inaccuracy if it remains unresolved after the child has left the custody of the agency which provides child welfare services until the inaccuracy is corrected.

We wanted to strike this language because children do not always want our assistance. The other logistical issue is that we have no legal right to any of the child's information or to obtain credit information after the child is no longer in our custody. We replaced the language that was struck at section 1, subsection 3, paragraph (c) with:

> (c) upon the child leaving the custody of the child welfare agency, if the inaccuracy remains uncorrected, the agency shall notify the child, or the person responsible for the welfare of the child, in the event the child is not of the age of majority, of the continued existence of the inaccuracy, steps that can be taken to resolve the inaccuracy, and appropriate community services that may be available to provide assistance with the resolution.

Assemblyman Eisen:
When this was amended in the Senate, an unintended conflict may have been created in a couple of clauses. Under section 1, subsection 1, the language describes that the credit report should be obtained for a child for whom the agency provides services for 60 or more days. The language was added that if the child has reached the age of 16 years before being placed in custody, that it is done upon placement. At the time of placement, it would not yet be known if that child is going to be in the custody of child welfare services for 60 days. If we are going to be amending this further, it seems there is potential for conflict. If we do that right away, the child may not have been in custody for

60 days. If we wait until it has been 60 days, then we have not done it "upon the placement of the child in the custody of the agency." I think that needs to be cleaned up to clarify when the initial credit check will occur for a child who is 16 years old upon placement.

Jill Marano:
Yes, that makes sense. We will look at the language and make sure it is clear.

Vice Chair Spiegel:
Does anyone wish to testify in support of S.B. 99 (R1)?

Kevin Schiller, Director, Washoe County Social Services:
I want to testify in support of this bill. It is another check and balance in our system as we try to do what is best for the children. This bill is moving us in a direction where we look at how we positively influence their lives. We worked on this bill a lot in the Senate, and specifically on the financial impacts and how to manage them.

Vice Chair Spiegel:
Does anyone else wish to testify in support? [There was no response.] Do we have anyone who wishes to testify in opposition? Does anyone wish to sign in as neutral? [There was no response.]

Before we close the hearing, I believe there is a question or two about that the proposed amendment.

Assemblyman Eisen:
Ms. Marano, I appreciate the effort being made here with this proposed amendment (Exhibit E); however, there are a couple of issues. One would involve a minor technical change concerning notification of the child. I presume we are talking about someone who ages out of the system. Technically, they would not still be a child, and it would help if that were clarified. The other issue concerns taking the agency completely out of the mix. I understand the idea of handing over information and resources that can be used if it is still a child and there is an adult who is responsible for that child. If it is someone aging out of the system, would it still be possible, with their consent, for the agency to continue to help them resolve that problem? This is someone who would just be coming out of state custody and who might be in the midst of dealing with an identity theft issue. Can we still provide the opportunity for the agency to help in a circumstance like that if the adult who has aged out consents?

Jill Marano:
The process for children or young people as they age out of the system is, once their foster case ends and the 432B case effectively closes, they have the option to be transferred to what we call our A.B. 350 kids—referring to a bill passed in the last legislative session. That extends court supervision and jurisdiction up to age 21. While it is administered a bit differently in each of the three child welfare agencies, the piece that is the same is that those children are referred to another provider who continues to manage and provide services. Right now, any unresolved credit issue could be transferred to the agency the child is still working with. That agency could work with them on the issue.

When we were looking at this language, we were envisioning advising the agency still working with the child and providing a letter to the child that would list what needed to be done and the people who could help. Does that address the concern? Is there language that would be helpful?

Assemblyman Eisen:
I would like to see language that would read something like, "with the consent of this young adult who has now aged out," that the information would be transferred to the A.B. 350 entity that is going to continue to help. We could add that, but I think it is very important we include the piece about their consent. I recognize there are some who age out, want to be on their own and do not want anyone meddling in their lives. That is a choice they have the right to make at that age.

Assemblyman Thompson:
I echo those sentiments. It needs to be with the consent of the child. We should realize that a foster care bill of rights for children was passed in a prior session. They are asking to be treated just like any other child. Would every parent automatically do this for their child? Maybe; maybe not.

I understand the circumstances with a child who is in custody, but, for the record, we should add some wording in the bill that says "in collaboration" or "working with the young person," to request the credit report. Mention should be made concerning how to work with them to resolve it because we should be training them so they can resolve problems on their own. We are getting them ready for independent living.

Vice Chair Spiegel:
Assemblyman Eisen and Assemblyman Thompson, I hope after the hearing you will work with the bill's sponsor and discuss your concerns. If there are no more questions or comments, I will close the hearing on S.B. 99 (R1). We are now going to open the hearing on Senate Bill 176 (1st Reprint).

Senate Bill 176 (1st Reprint): Revises various provisions concerning investigations of reports of abuse or neglect of a child. (BDR 38-66)

Lisa Ruiz-Lee, Director, Family Services, Clark County:
Senate Bill 176 (1st Reprint) comes before you to assist the child welfare agencies with a refinement of the statutory processes and the language that is related to the appeal processes of child protective services' investigations. In child welfare, we render findings pertaining to investigations of abuse and neglect. We receive a report of abuse or neglect, we go out, we respond with an investigation, and those investigations lead to a determination of a finding. In Nevada, that finding is either a substantiated investigation or an unsubstantiated investigation.

The names of individuals who receive substantiated findings of abuse and neglect are submitted to the Central Registry. Under federal law, as well as under state law, individuals who have substantiated cases or substantiated findings of abuse or neglect are entitled to an appeal process. They have the right to be heard and they have the right to have their case rereviewed to make a determination about whether the finding should stand and whether their name should remain within the Central Registry.

For cases that are not court-involved, the current statute works very well. For cases that are court-involved, however, the current statute does not work well. For cases that are court-involved, we would have an agency substantiation. Then the appeal process for those cases would be, and always has been, routed through the court system, because the court has intervened and found that a child is in need of protection and that the finding is related to the abuse and neglect that occurred. Therefore, any disagreement that a parent may have with that finding would go through the court process.

In 2011 we examined the current statute language and made a request for an Attorney General opinion on whether the existing statute language actually supported the current practice. The opinion we received said that the statute, as it was written, really required two separate appellate processes for each case—one that was specific to the agency and one that was specific to the court.

The bill before you helps us streamline that process. Federal law does not require two appellate processes, it only requires one. For us, two appellate processes would create a programmatic nightmare. What would we do with cases that are court-involved? I have a court that has found children are in need of protection due to abuse and neglect, but I have an administrative hearing officer who overturns the agency's substantiation on that case. I would have

involvement in the case because perhaps we would have kids placed out of home, but I would have no agency substantiation behind it. I would like to tell you that it has never happened, but it has happened in Clark County. We ended up in quite the quandary over how to proceed. What is before you is assistance to help us clean up that language and redirect it.

The language of the bill says that for cases that are not court-involved, or for cases in which the court denies the abuse and neglect case that the child welfare agency has substantiated, the individual's right to an administrative appeal is heard. If the case is court-involved and the court has rendered a finding, has sustained the petition and found that the child is in need of protection, the court will hear all of the remaining appeals processes.

I will walk you through the bill language. Section 2 defines "Central Registry." Section 3 says if we, as an agency, substantiate an investigation, that we provide a letter of notification to the alleged perpetrators of that case notifying them that we have substantiated the case. In section 3, subsection 2, on page 3, you see that each of those individuals have the right to request an appeal and that we would receive that request. In section 4, subsection 3, some of the cleanup language begins to appear. It says that the administrative appeal is stayed if the court is involved and we receive notification that there is a pending adjudication hearing scheduled. The stay on that appeal lifts if the determination is made by the court and it is dismissed or terminated. Then we would move forward with the traditional agency administrative appeal process.

In section 4, subsection 6, on page 4, you will see the conclusive presumption language. It says that the substantiation is affirmed if a court finds that the child is in need of protection. Therefore, the appellate processes would route that way.

For the most part, the rest of the language in this bill is modified to incorporate the findings of the investigation. As we were trying to craft this new process, we realized we had to include in the language that we render findings of substantiated or unsubstantiated abuse and neglect.

On page 6 in section 7, you again see cleanup language clarifying the steps in an investigative process. On page 7 in section 7, subsection 1, paragraph (f), it states that we render a finding substantiated or unsubstantiated.

An amendment was submitted by the state for this bill (Exhibit G). They are requesting, and we fully support them, that the definitions for substantiated and unsubstantiated which were included in this reprint language be removed and redirected to the definitions that exist in *Nevada Administrative Code* (NAC).

There is some conversation that the evidentiary standard for child abuse and neglect cases may be modified or adjusted. The state felt more comfortable that the change could be done more easily through a regulatory process. If we redirect the definitions of those two words, which historically have always lived in NAC, that would suffice.

There was also another minor modification made that is on page 7 in section 8, subsection 2. It adds clarification to the Central Registry language concerning whether we submit names to the Central Registry for substance-exposed infants. Currently it says that we do not, but they wanted to clarify the language to state, "unless the agency determines that a person has abused or neglected the child after the child was born," so there would not be some sort of de facto abuse and neglect based upon the pregnancy alone.

Assemblywoman Fiore:
In section 7, you mentioned changing the definition of "substantiated" back to the original definition. What was that definition? I read it that, if you cannot find the child or the adult, you are going to substantiate it as being okay. If that is the case, can we amend it saying, if you cannot find the child or the adult, we can do something like a police well-check. I know they do them at 2 a.m.

Lisa Ruiz-Lee:
Let us say we get a report of abuse or neglect and we cannot physically find the family. Are you asking what our next steps are? In Clark County we would not render a decision on an investigation for a family we are unable to locate. We have lots of resources in order to access families. We have access to public safety search engines that pretty much allow us to find people wherever they are. There would not be a conclusive presumption that, because we could not find you, we substantiated that investigation. Did that answer your question?

Assemblywoman Fiore:
That is going to do for now. I will email you about this later.

Assemblyman Sprinkle:
I believe you said you were trying to revert to definitions in county code?

Kevin Schiller:
It would be *Nevada Administrative Code*.

Assemblyman Sprinkle:
So it would be uniform throughout the state.

Assemblyman Eisen:
Ms. Ruiz-Lee, as we discussed yesterday, a couple of issues arose for me as I was reading this bill. The first issue concerns existing language in the statute that is not being changed, but since we are opening the statutes, I believe it is something we need to discuss. On page 5 of the bill, starting on line 15, is one of the circumstances under which an agency can determine that an investigation is not warranted. It describes that the "Alleged abuse or neglect was the result of the reasonable exercise of discipline by a parent or guardian of the child involving the use of corporal punishment, including, without limitation, spanking or paddling." When I read that I was taken aback. I have not been shy in the past about making clear that I do not believe that the use of an implement in any circumstance qualifies as corporal punishment. The discussion about corporal punishment in general aside, this language, in my view, effectively condones the use of an implement in the administration of punishment of a child. I simply do not believe that is ever appropriate. What I suggest, and I would be happy to work with you on it, is actually the elimination of the last phrase there. I am not necessarily seeking to eliminate the entire paragraph, but that the paragraph would end after the word "punishment" and not describe the form of punishment.

On page 6, section 6, subsection 8, the current language provides an opportunity for an agency to reverse the determination that an investigation was not warranted. Presumably, if additional information comes about, and I notice it specifically said if that determination was made "pursuant to paragraph (a), (b) or (c) of subsection 3," that it would not allow for a reversal based on subsection 3, paragraph (d)—that corporal punishment section I just mentioned. The reason for that is explained beginning on line 1 of page 6 which says, "If an agency determines that an investigation is not warranted" because of the language in paragraph (d), not only do they not take further action, but they actually delete all references to the matter in the records. I was very concerned about that. You know as well as I do that we sometimes see these situations as escalations. We would lose the ability to identify that, for example, if there were multiple reports that showed an escalation of corporal punishment. The corporal punishment may have started with spanking, then became an implement, and then became a more substantial implement—it could be moving toward something problematic. We would lose that history. I am not quite clear why that paragraph is even there at the top of page 6. Again, I recognize this is existing statute, but if that paragraph were removed, the changes in subsection 8 would not be necessary.

Lisa Ruiz-Lee:
We had that when the bill was being presented in the Senate, because one amendment we submitted was to add the corporal punishment back into that section 8 language. In conversation with the Legislative Counsel Bureau, we realized that the "arrow-in" language really prevented us from doing it. Essentially what we said earlier on was that we had deleted all reference to the records, so you cannot go back to what you are not supposed to know. We are open to having that conversation because we have had it internally. You will not get any disagreement from any of us that history is vitally important in these cases.

[Assemblywoman Dondero Loop reassumed the Chair.]

Chair Dondero Loop:
Follow up? [Dr. Eisen declined.] Are there other questions?

Assemblywoman Spiegel:
I have a question related to unsubstantiated claims. Are there ever instances in which there are multiple claims from multiple sources, but they all turn out to be unsubstantiated? That would be a body of information that is pretty significant. There could really be something there and, if so, what happens with those?

Kevin Schiller:
I believe I can speak statewide. We get multiple referrals that are broken into two categories. Because of the nature of multiple referrals, we have processes that look at them to see how they are coded. Some become investigations and some do not. The first red flag is if we have multiple reports. We look at how we responded. If we respond and see multiple levels of unsubstantiation, we typically review those to see what other collateral sources there are. We investigate further to determine what the nature of the reports is. Using the theory of "where there is smoke, there is fire," we try to see what that can be, because it is a very significant red flag. Looking at that history helps us piece together what we may or may not be seeing.

Assemblywoman Spiegel:
As I was reading the bill, I was wondering if that history would wind up being lost. [The witnesses at the table shook their heads, "No."]

Chair Dondero Loop:
Are there additional questions from the Committee? [There were none.] Is there further support for S.B. 176 (R1)? Is there any opposition? Is anyone neutral? [There were no responses to those questions.] I will close the hearing on S.B. 176 (R1). We will open the hearing on Senate Bill 98 (1st Reprint).

Senate Bill 98 (1st Reprint): Revises provisions governing certain reasonable efforts made by an agency which provides child welfare services to preserve and reunify the family of a child. (BDR 38-68)

Valerie Wiener, Chair, Interim Legislative Committee on Child Welfare and Juvenile Justice:
Senate Bill 98 (1st Reprint) deals with reasonable efforts. This is another measure brought to our interim committee as a recommendation from the working group for submission as a bill draft request.

Denise Tanata Ashby, representing the Children's Advocacy Alliance:
[Ms. Ashby's written testimony (Exhibit C) included S.B. 98 (R1).]

The Children's Advocacy Alliance convened the 432B Workgroup, and this bill incorporates two recommendations of that workgroup related to reasonable efforts and waiver of reasonable efforts. Senate Bill 98 (1st Reprint) as originally written incorporated two of the recommendations provided by the workgroup to the interim committee related to reasonable efforts made by child welfare agencies to preserve and unify the family. Despite our best efforts, the workgroup did not reach consensus on every provision of this bill. Additionally, several amendments have been made to the original language and, as such, we have submitted an amendment which would restore some of the original intent of the bill as presented by the workgroup and proposed by the interim committee.

Chair Dondero Loop:
Is the amendment you have friendly and has it been worked out?

Valerie Wiener:
Speaking as chair of a committee that is no longer sitting as a committee, I know we had conversations. I believe it is more important for that conversation to come to the table. I cannot speak for the committee to know whether the amendment is friendly or not, but I certainly welcome that conversation. At this point I would be neutral, because we have not met as a committee to make that decision.

Chair Dondero Loop:
Ms. Ashby, please pause for a minute while we hear from those who are in total support or with friendly amendments to S.B. 98 (R1).

John T. Jones Jr., representing the Nevada District Attorneys' Association:
We are here today in support of S.B. 98 (R1) as amended by the Senate Health and Human Services Committee.

Brigid J. Duffy, Chief Deputy District Attorney, Juvenile Division, Office of the District Attorney, Clark County:
I am very pleased with the amendments to S.B. 98 (R1) as the bill came through the Senate. We are fully supportive of the bill as currently written; however, we are opposed to the proposed amendments.

Chair Dondero Loop:
Are there any questions from the Committee? [There were none.] To clarify, Ms. Duffy, your support is of this first reprint and you will weigh in on the other amendments that have been proposed?

Brigid Duffy:
Yes, I am in support of this first reprint.

Chair Dondero Loop:
Is anyone else in support of S.B. 98 (R1)? [There was no response.] Is there any opposition? Opposition means that you may have an amendment that has not been approved by the sponsor of the bill.

Denise Tanata Ashby:
[Ms. Ashby read her testimony from prepared text (Exhibit H). She also submitted a proposed amendment to the bill (Exhibit I) and a comparison of federal and state laws related to waivers of reasonable efforts (Exhibit J).]

Chair Dondero Loop:
Are there questions from the Committee?

Assemblyman Eisen:
I am perplexed by some of the amendment language that is offered, in particular the removal of paragraphs (g) and (h) in section 1, subsection 3, and then the addition of this new paragraph (a), subparagraph (5) in section 1, subsection 3 (Exhibit I). To me, it is almost a wash whether we have paragraph (a), subparagraph (5) or whether we have paragraph (h). Obviously there is a little bit more clarification in the current language with regard to the reference to *Nevada Revised Statutes* (NRS) Chapter 179D and the reference to the U.S. Code.

There is a significant difference between what is currently in paragraph (g) and what we would be talking about with what you propose as paragraph (a), subparagraph (5). It changes the focus from the child or other children and the situation for children in that home, as it is in paragraph (g), to the parent. It does not address the possibility that there might be someone other than the parent, someone who is not responsible for that child, but who is in that home.

There may be multiple families living together. The parents of an unrelated child in that home have committed an act of sexual abuse on another child. I think we would lose that. I am not quite clear what the advantage would be of taking out paragraph (g) and changing to the language in paragraph (a), subparagraph (5). Why would it be a bad thing to have the broader language as is described in the current draft of the bill?

Denise Tanata Ashby:
The primary concern, particularly with paragraph (g)—I do not know that we have particular issues with paragraph (h); we were just combining those two sections—is the language that the child or sibling has been subjected to neglect by pervasive instances of failure to protect the child from sexual abuse. Particularly in cases of domestic violence, this can be an issue. Here, we are talking about the ability of the agency to waive reasonable efforts. This is not saying that the child would not be removed from the home; this is not saying that the child would ever be returned to the home; this is saying in cases where no efforts have to be made. If it is the parent who has been convicted, has sexually abused the child or another child, there should not be a requirement by the agency to prolong permanency. There is not a need for reasonable efforts in that situation. In other cases, and particularly in cases of domestic violence where there is a threat, we are saying that we want to give an opportunity to that parent to correct that issue and be able to reunify with their child.

Assemblyman Eisen:
Perhaps we will need to talk a little more outside the Committee for me to better understand that. I am not quite sure how the example of domestic violence you raise addresses the distinction I am talking about here. I prefer the language as it is written in paragraph (g). If this child, a sibling, or another child in the household has been sexually abused or has been the victim of pervasive failure to protect, that really describes the home, whereas moving it into paragraph (a) focuses it on the parent. I am not sure narrowing it just to the parents is important. There are other people around, and I think the concern on the part of the agency has to be the situation for the child. If there is reason to believe that it is not a safe place for a child to be because of this kind of thing—there have been pervasive instances of failure to protect—I do not think that the agency should have to make a full effort to place that child in that home. The idea is to make sure the child is safe. That has to be what is primary, and I think the current language probably does that better.

Assemblywoman Benitez-Thompson:
My questions are in the same area, between the original amendment and the language. I prefer the amendment language because, when it comes to the world of child welfare, when we are talking about sexual abuse, there is so

much uncertainty. There are so many times in which an agency may suspect there is abuse, but they do not have proof. With the current language, to say you can waive a family's right to reunify when you do not have a conviction or any legal process to determine that, makes me nervous. There is so much gray area. If you know for certain that a child has been sexually abused and it is clear-cut, then it is really easy. But in the world we live in, in the world you folks operate in, not every case of sexual abuse against a child is clear-cut and you know 100 percent what happened. You might have a very young child who makes statements indicating he is more sexually aware than he should be which give you pause to wonder what may have happened to that child in the home, but you might not have anything more than that.

What I am looking for is, what is that breaking point? Where do we step over the line between suspicion and things that make us believe the child has been abused so we are not going to engage in reunification versus hard facts? Hard facts such as a conviction, so we know for certain we can waive that parent's right to try to reunify.

Brigid Duffy:
In order for the state, the district attorney's (DA) office, to move to waive the requirement to put forth reasonable efforts to reunify a family, that case first has to go through a whole judicial process where the court determines that it is true. You would have a child tell the Department of Family Services (DFS), "I am being sexually abused in the home." The DFS would remove that child, and then, in Clark and Washoe Counties, there would be a petition filed by the district attorney's office. At that point, the parent would be appointed an attorney. In most circumstances of sex abuse in Clark County, parents are automatically given attorneys. In Clark County, more likely than not, the child will also be given an attorney. The parent has the right to admit or deny those allegations in that petition. If the parent denies those allegations, there will be a court trial. If it is found to be true, the next phase allows the DA's office to file a petition to not have to work with this family if certain circumstances under NRS 432B.393, subsection 3, exist.

What we had asked, and what was approved in the Senate, was to add in the "pervasive failure to protect" language. There is a whole court process during which a judge will determine whether or not this parent has failed to protect. At that point, it is not just DFS's hunch.

Assemblywoman Benitez-Thompson:
So until that process is exhausted and the court makes a ruling, reunification efforts are in place, right? After the court makes that ruling is when you would be able to waive the reunification efforts, right?

Brigid Duffy:
That is right. We do not seek to waive reasonable efforts until after the petition is found to be true.

Assemblywoman Benitez-Thompson:
I read two different things happening in section 1, subsection 3, paragraph (g). One is that we are talking about the person who has sexually abused a child, which is the process we discussed. Also within paragraph (g) is mention of neglect by pervasive instances of failure to protect. That is a person who has not actually abused a child, but is the person who failed to protect. In that instance, let us say it is Mom. The dad or her boyfriend was the one sexually abusing, but Mom did not protect. For the situation in which there is an adult who failed to protect, what is the process by which that is determined? Is that not through the life of the child welfare case—determining whether she had those protective capacities? How is failure to protect determined?

Brigid Duffy:
The allegations we would lay out in the petition would say, "The natural mother has failed to protect this child," and we would lay out the factual basis. We have had cases in which the natural mother has walked into a room, actually seen the abuse going on, and done nothing for a year before that child finally disclosed to someone else. It could be we have a mother who we just told, or the child just disclosed, and she is failing to protect because she says, "I am not going to kick him out of the house. I am going to choose him over my child." At that point, we would say that she has failed to protect this child because she is making this decision.

Currently, she would get a case plan to go through some classes to help her understand child sexual abuse and its dynamics. We often hear from mothers, "Well, she clearly liked him. She did not appear afraid of him," et cetera. What we would like to focus on are "pervasive" instances of failure to protect. It is not those instances in which you just found out and are in that, I-cannot-believe-this-is-happening-to-me stage. It is those cases where you are walking in, seeing it, and there is no denying it; or you are a parent who went through this before with one child. You had all the classes and maybe you got that child back. Now you have a new boyfriend and a different child, and now that child is being perpetrated on by that boyfriend, and everything you learned through that first case plan is out the window. Why are we going to keep going through that cycle on behalf of these children when you have already taken those classes? That would also possibly fall under another section of this waiver of reasonable efforts that was salvaged in the first committee.

We have to recognize that, and I agree with Ms. Tanata Ashby, waiver of reasonable efforts should only be utilized in our most severe cases, and we do. In Clark County, we only did this 50 times. We made the request 50 times out of over 1,400 cases in 2012. In only 0.03 percent of our cases did we ask for this finding, so we are using it in only the most severe cases.

Assemblywoman Benitez-Thompson:
Were those adjudicated cases?

Brigid Duffy:
They were all adjudicated.

Assemblywoman Benitez-Thompson:
So then what is the difference between this language and the amendment? The amendment talks about someone who has been found guilty of sexual abuse, which is the extreme example you are talking about. For the legislative record, if I am understanding right, the pervasive instances are determined by the court. There is a process for the person who is accused of being sexually inappropriate with a child or abusing the child, and then is there also a process for the other person, Person B?

Brigid Duffy:
Under NRS Chapter 432B, abuse and neglect are civil proceedings and that is an adjudication. The proposed amendment refers to a criminal conviction of child sexual abuse. There would more likely than not be a criminal conviction of somebody who failed to protect. The criminal division might file a charge of criminal child neglect for not protecting that child. That would be an adjudication on a civil petition. I agree that it would be a conviction of sex abuse against a child, a sibling of the child, or any other child in the home. *Nevada Revised Statutes* 432B.393 is concerned with murder, manslaughter, and voluntary manslaughter. In section 1, subsection 3, paragraph (h), it does not say conviction under NRS 432B.393 but under the Adam Walsh Child Protection and Safety Act of 2006. It is required to be a conviction and not a civil adjudication. It is a lower burden of proof, of course. The intent would be that before you ask for an aggravated circumstance on a parent who has sexually abused a child, a sibling of the child, or another child in the home, a criminal conviction would be required, just like murder or voluntary manslaughters would. The amendment just puts the word "convicted" in this section but not the murder section. We are not indicating pervasive failure to protect would require a conviction, just the civil findings of failure to protect.

With regard to the court discretion in that instance, NRS 432B.393, section 1, subsection 3, in the proposed amendment has the court make the determination whether or not the agency is required to make reasonable efforts. Currently the language reads, "An agency which provides child welfare services is not required to make reasonable efforts required by subsection 1 if the court finds . . . " something, so the court is involved in the process. Within NRS 432B.393, section 1, subsection 3, there are some things which have court discretions and some things in which you would be able to argue that the court does not have discretion.

The court would not necessarily have discretion over whether a person is convicted of murder. The state would come in with a conviction for murder and say that we are not required to put forth reasonable efforts; we have a conviction for murder. The court would have discretion under NRS432B.393, section 1, subsection 2 as currently written, which would be if the state said that it did not want to provide reasonable efforts to unify a family because this parent caused the abuse or neglect of a child or another child, which resulted in substantial bodily harm. Substantial bodily harm is a factual basis that can be made by the court. The state would come in and say, "He has a fractured femur and eight broken ribs and a subdural hematoma," and we would argue, "Judge, that is substantial bodily harm." The parent's attorney would say that it is not, that it was a one-time instance and not substantial bodily harm and that the agency should have to work with them. The court will make that decision. There is discretion.

Current language in NRS432B.393, section 1, subsection 3, speaks about causing the abuse of child which is extreme or repetitious. That is current language, but it is also at the discretion of the court. Is it extreme and repetitious for one broken femur? It was a frustrated young parent. I do not know if the state would win that one in front of a court. Is it extreme or repetitious if the parent is chaining the kid up every night after school and not feeding him? Probably. Again, factual allegations would be determined at the discretion of the court.

If the parental rights of a child have been previously terminated, that is not discretionary. We would have a certified copy of a temporary restraining order that said parental rights had been terminated. Prior removal of adjudications and then subsequent removals are other fact-based situations that would not be discretionary. Pervasive failure to protect would be a discretionary call by the court.

Assemblywoman Benitez-Thompson:
For the legislative record, you are okay with the proposed amendment to section 1, subsection 3, where it clearly defines that the court must determine, but you want to keep the language in paragraphs (g) and (h) as they are?

Brigid Duffy:
No. On behalf of the District Attorneys' Association, and working with the Department of Family Services, we are opposed to giving the court the discretion on whether the agency makes the reasonable efforts. I believe there are already court discretionary things within the statute—such as substantial bodily harm and extreme and repetitious. It would be the pervasive failure to protect if left behind, but to give the court the discretion to say, "Even though I find all of these things, you still have to work with this family." We are not in support of that.

Assemblyman Hambrick:
I do not want to minimize the importance of this issue. The sponsor of the bill is no longer in existence. We are having an open debate about a possible amendment, and it would be nice if the sponsor could be involved. Madam Chair, you may have to determine who that may be. These are heavy issues, and the stakeholders need to come together as this is a rather lengthy proposed amendment. We seem to be having an open debate about a topic where the sponsor is not available.

Chair Dondero Loop:
Senator Wiener, could you give the Committee and me some history. As I understand it, the Interim Committee on Child Welfare and Juvenile Justice made the determination to have this bill. It was heard in the Senate. There was an amendment. The bill passed through the Senate 21-0 and was reprinted. Where was the disagreement? It was voted out unanimously, but now we have a proposed amendment.

Valerie Wiener:
Some of these issues were brought to my attention as chair of the interim committee based on the actions taken in the Senate and based on the language. It has been mentioned to me that the changes made in the Senate veered away from the language preferred by those who proposed this measure to the interim committee. Because the interim committee no longer exists, I cannot go back to it and have this conversation.

As the chair of the interim committee, and as a representative of a committee that no longer exists, I am willing to sit as facilitator and have this conversation one more time with everyone at the table to expedite any conversation that may need to take place.

Chair Dondero Loop:
We may very well need to do that.

Assemblywoman Fiore:
I am concerned with language on page 3 of the bill at lines 38 through 41, "A parent of the child is required to register as a sex offender pursuant to the provisions of chapter 179D of NRS." I personally know of a couple of instances in Clark County in which the husband was charged with open and gross lewdness for touching the wife in an inappropriate fashion in an argument and had to register as a sex offender. He has never touched a child and they have three children. When the children are in a great environment but there is an issue with a spouse that has nothing to do with children, but it is a sex offender, how would paragraph (h) affect that family?

Brigid Duffy:
The language in paragraph (h) is required language from the Child Abuse Prevention and Treatment Act (CAPTA). In order for the state of Nevada to receive federal funding, we have to have that language in statute. There are other sections of S.B. 98 (R1) which make this a very significant and important bill to the state of Nevada that are required-language sections in order for the state to receive its funding. I proffer to you that we, as a county, use this in the most severe cases. It is not that there were only 50 cases last year that we could have used it on; those are just the 50 we chose to use it on.

Understanding that there are cases where individuals are required to register as sex offenders, may not necessarily mean that they are not rehabilitated or that it was some odd situation such as you mentioned. Then the DA's office would use its discretion concerning whether to seek a court finding that we are not required to work with this family. It would be a discretionary call in the prosecutor's office for each of the counties that bring these cases for child protective services. That language itself is required under CAPTA.

Denise Tanata Ashby:
That is a perfect example of why we are specifically requesting that the court review and approve these waivers, because it would require not just the district attorney's office or the agency unilaterally to make those decisions on which cases they could go after waivers on. It would also require them to take that

before a court, have the judge look at the circumstances of the case, to see if a waiver would be appropriate.

Chair Dondero Loop:
Are there additional questions from the Committee? [There was no response.] Is there any other opposition? [There was no response.] Is there any neutral testimony?

Jon Sasser, representing the Legal Aid Center of Southern Nevada and Washoe Legal Services:
Both of the programs I am representing have children's advocacy projects that represent the child in these discussions. We have heard Ms. Duffy talk about attorneys for the state and attorneys for the parents, but she did not mention that attorneys for the children are also involved in this process. With me at the table is Melinda Wishart who is a Children's Attorneys Project (CAP) attorney. I thought we would be coming to the table in support of friendly amendments that had been accepted by the bill's sponsor, but when Chair Wiener said she was neutral on those proposed amendments, I thought we should also speak in the neutral position.

We were in support of the amendments offered by Ms. Ashby. We have had some conversation with the parties about this whole idea of lost federal funding, so at the moment, we would like to say that we do not want to lose any federal funding nor do anything that would jeopardize it. We are not sure that it requires the language currently in the bill in order to do that, because we need flexibility in representing the children. The child could choose either thing. Our job is to represent the children's wishes, so the child may want reunification, and we do not want barriers in the way to be able to ask the court for that, or the child may oppose it. Either way, we represent the children's interests and, for that reason, we are neutral at the moment but would like to be part of these discussions during whatever process you set up. Ms. Wishart is going to tell you how this affects our practice and why we would like to be at the table.

Melinda Wishart, Child Advocacy Attorney, Washoe Legal Services:
I work with six other attorneys to represent abused and neglected children in Washoe County. I am here to testify as neutral for S.B. 98 (R1). The bill is important to bring Nevada law closer to federal law in order to provide protections, oversight, and important funding for our state's children in foster care. When a child is removed from a home due to abuse and neglect, the state is required to provide reasonable efforts to reunify that child with the family. This provides families with an opportunity to remedy the abuse and neglect that caused the removal. These efforts are paramount to the preservation of the family unit. Reasonable efforts are determined on a family-specific basis in

order to address the unique needs of each family. Unfortunately, sometimes reasonable efforts hinder a child's access to permanency; therefore, those reasonable efforts are not in the child's best interests. Federal law has addressed this by providing specific waivers in very egregious circumstances.

Before we realized there was some controversy regarding the language in the proposed amendment to section 1, subsection 3, we believed requiring judicial determination of reasonable efforts was important to ensure that waivers are only granted in very egregious circumstances. Additionally, the court oversight of when reasonable efforts are required despite the waivers may be important to our kids especially so they have a voice in the courtroom to determine when reasonable efforts will still be provided despite the waiver.

The proposed amendment to section 1, subsection 3, paragraphs (g) and (h), brings Nevada law closer to federal law, allowing our state to receive federal funding. We believe the proposed amendment may remedy the current broad language while complying with federal regulations. The current proposed language, absent the proposed amendment, waives reasonable efforts for a child, even if the child is sexually abused by one person in the home, when the parent is unaware of the abuse. We believe the hearing may adequately protect the child victim and comply with the federal law while narrowing the potentially overly broad language in S.B. 98 (R1). The proposed amendment to S.B. 98 (R1) still waives reasonable efforts for a person responsible for a child's care when that person has been convicted of sexual abuse against a child or another child of the parent or is a registered sex offender, as required by the federal law CAPTA. This amendment, we believe, protects the importance of reasonable efforts for a parent who is unaware of such conduct.

Chair Dondero Loop:
Are there any questions from the Committee? [There was no response.] I am going to ask Mr. Schiller, Ms. Ruiz-Lee, and Ms. Howell to come back to the witness table and weigh in on this. It is important to vet this information. Please, just give us your thoughts.

Amber Howell:
The state has two roles. We have direct oversight over the 15 rural counties, as well as oversight over the two urban child welfare agencies, so it is important to us to have consistency and flexibility where we can. In response to the Child Abuse Prevention Treatment Act, the federal government gives us money for safety training, investigations, and those sorts of things. It is around $450,000 a year and is the only money the agencies have for safety-related training. The federal government does not give us any other money and neither

does our state General Fund, so it is really important to preserve those federal funds.

What is also unique about this situation is the federal government does not give us a lot of choices or discretion when it comes to laws and regulations around our child welfare policies and procedures. This is an area that they give us some flexibility in, and we like to have flexibility where they allow us to. One area is in regard to reasonable efforts—when they can be waived and when they cannot—and allowing the agency to do that without having to go to court is significant for us. We spend a lot of time there; there are lots of activities, so anywhere we can have flexibility, we would appreciate having it. From a statewide oversight, we are supportive of the bill as written, but not with the amendments.

Lisa Ruiz-Lee:
I echo a lot of what Amber Howell said in her testimony regarding this bill. Clark County is very much in support of the bill you have in front of you, but not in support of the proposed amendments. As Amber Howell indicated, we are very rarely provided flexibility as child welfare agencies in making decisions related to the cases we serve. We have much court involvement and many court decisions that are made as a result. We believe the language you have in front of you still ensures that families are provided the due process that they are entitled to through having the courts review these cases and make the appropriate findings of circumstances. We also believe that once the court finds those circumstances, that we, as child welfare agencies, know these families best and should have the flexibility to make the determination on whether we provide reasonable efforts. As a result, we object to having to go back to court to get their approval to do that as well. We work with these families for hours and hours and hours, longer than the courts ever will, and we believe we have the professional expertise and can make those kinds of judgments.

As Brigid Duffy testified, the important component is that we do not do this often. We do not ask for a waiver of reasonable efforts on very many cases. Brigid said that in Clark County it was 50 in a one-year period—0.03 percent of the cases we serve. The numbers speak for themselves from the perspective that we are not looking to make these decisions in a haphazard way. We are about family preservation. When it comes to child welfare, we are about family preservation and we are about family reunification. That is our first, and really principle goal, when we work with families. I think we do a pretty good job of that.

Another thing I think it is important to note and that several folks testified to earlier, is that we are also, as those agencies, responsible for the outcomes we

achieve with regard to child welfare. The courts are not. The courts are not subject to the Child and Family Service reviews or to the penalties that come with them. There are many data indicators that are tied to reunification and reasonable efforts, not the least of which would include reoccurrence of abuse or neglect that happens when you return children, or achieving timeliness to permanency. Those are two things we are rated and evaluated on by the federal government and we pay the penalties for failure there. As child welfare agencies, I believe that we have the expertise to make the determination on whether we provide reasonable efforts. I believe that there is enough court oversight in that process that it creates a nice, fair balance among all of them. Again, there are a lot of nuances to this and I appreciate the opportunity to be heard, but we support the bill as it came to you in this reprinted version and do not support it with the amendments that were proposed.

Kevin Schiller:
From the perspective of not making reasonable efforts, that is really the exception, and I want to emphasize that. While I appreciate the proposed amendments, this is a difficult discussion. We are dealing with children and families, and court oversight is obviously a critical component of that. That being said, we spent a lot of time in the Senate going through these issues. We put a lot of work into this bill as written, and I support it. I do not support the amendments, but by the same token I understand that this is a delicate issue that is very frustrating for all the parties. What we forget sometimes is that there are a lot of checks and balances in our system, and, as an agency, we should not be disallowed from being able to make unilateral decisions, including children's attorneys, public defenders, and the like. I support the bill as it is in front of you.

Chair Dondero Loop:
Committee, does anyone have a question for these three professionals? [There was no response.] All right, thank you very much.

Is there anyone else who is neutral on the bill? [There was no response.] If no one else has any further comment, I will close the hearing on S.B. 98 (R1). Ms. Duffy, do you have any parting words?

Brigid Duffy:
I would like to thank this Committee. It is a very important issue you are taking on. I respect the work done by the interim committee. I think we worked really hard to get what we got to you today for your consideration. I would be happy to be available for additional questions as you go into any work sessions.

Chair Dondero Loop:
Thank you very much. I appreciate your time today. We may need to have a couple of round table discussions on this, so we will get back to all the parties involved. Senator Wiener, I may take you up on your offer to assist.

Valerie Wiener:
I look forward to that. As chair of the committee that was the sponsor which is no longer in existence, I am really the facilitator of a committee recommendation. I look forward to having a conversation off-line. There were a lot of critical issues raised today and I am willing to assist you in that conversation.

Chair Dondero Loop:
Thank you very much. You and I will be in contact and we will decide moving forward. Are there any comments from the Committee? [There were none.] Is there any public comment? [There was no response.] This meeting is adjourned [at 2:29 p.m.].

RESPECTFULLY SUBMITTED:

_____
Terry Horgan
Committee Secretary

APPROVED BY:

_____
Assemblywoman Marilyn Dondero Loop, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Health and Human Services

Date: May 3, 2013 **Time of Meeting: 12:37 p.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 97 (R1), S.B. 98 (R1), S.B. 99 (R1)	C	Denise Tanata Ashby, Ex. Dir., Children's Advocacy Alliance	Written testimony
S.B. 97 (R1)	D	Denise Tanata Ashby	Proposed amendment
S.B. 99 (R1)	E	Jill Marano, Dep. Admin., Div. of Child & Family Svcs.	Proposed amendment
S.B. 99 (R1)	F	Denise Tanata Ashby	Letter of explanation
S.B. 176 (R1)	G	Jill Marano	Proposed amendment
S.B. 98 (R1)	H	Denise Tanata Ashby	Explanation
S.B. 98 (R1)	I	Denise Tanata Ashby	Proposed amendment
S.B. 98 (R1)	J	Denise Tanata Ashby	Comparison of waiver of reasonable efforts