

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

**Seventy-Seventh Session
May 16, 2013**

The Senate Committee on Health and Human Services was called to order by Chair Justin C. Jones at 3:30 p.m. on Thursday, May 16, 2013, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 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 Justin C. Jones, Chair
Senator Debbie Smith, Vice Chair
Senator Tick Segerblom
Senator Joseph P. Hardy
Senator Ben Kieckhefer

GUEST LEGISLATORS PRESENT:

Assemblyman Paul Aizley, Assembly District No. 41
Assemblyman James Ohrenschall, Assembly District No. 12

STAFF MEMBERS PRESENT:

Marsheilah D. Lyons, Policy Analyst
Todd Butterworth, Policy Analyst
Risa Lang, Counsel
Joyce Hinton, Committee Secretary

OTHERS PRESENT:

Lesley Pittman, Reno Diagnostic Centers
James Cohen, M.D.
Alex Ortiz, Clark County
Lisa Ruiz-Lee, Director, Clark County Department of Child and Family Services
Ken Lange, Nevada Youth Care Providers Inc.

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Chair Jones:

We will open the hearing on Assembly Bill (A.B.) 147.

ASSEMBLY BILL 147 (1st Reprint): Requires the notification of patients regarding breast density and supplementary mammographic screening tests. (BDR 40-172)

Marsheilah D. Lyons (Policy Analyst):

I will read from the work session document for A.B. 147 ([Exhibit C](#)).

Senator Segerblom:

I am concerned the amendment submitted by Ms. Pittman, page 2, [Exhibit C](#), proposes to remove potential liability and to create immunity.

Lesley Pittman (Reno Diagnostic Centers):

The language in the proposed amendment mirrors the language included in California's legislation on a similar topic.

Senator Segerblom:

Do you agree that it carves out immunity?

Ms. Pittman:

Yes, Senator Segerblom, it does. There are still questions associated with the standard of practice with this health issue. There was support in California and in the diagnostic imaging community for providing liability protection because of the uncertainty that still exists.

Assemblyman James Ohrenschall (Assembly District No. 12):

I am the sponsor of A.B. 147. Dr. James Cohen, a long practicing oncologist who specializes in breast cancer, is with me to answer any medical questions.

When we started working on this bill in the Assembly, we met with all the interested parties. In the original bill, only women with heterogeneously dense breast tissue or extremely heterogeneously dense breast tissue would be notified they have this type of tissue. In addressing concerns, the agreement was to inform every woman who receives a mammogram of her breast density. This language was developed through the effort of compromise.

Section 1 of Ms. Pittman's proposed amendment does mirror California statute. However, in the California statute, only women with dense or extremely dense breast tissue are informed of their density. The liability language that Senator Segerblom addressed does not mirror California. The California statute provides immunity for failure to comply with an end date, which was 6 months from the effective date of the legislation. The proposed amendment from Ms. Pittman does not have an end date. This would create an open-ended immunity.

I cannot find section 2 (d) of Ms. Pittman's proposed amendment in the California statute. There is not a premise for this amendment. Dr. Cohen and I have submitted a study about the issue with mammography providing false negatives with women who have heterogeneously dense breast tissue or extremely heterogeneously dense breast tissue ([Exhibit D](#)). There is a good deal of data about the increased risk of breast cancer. There has been misinformation disseminated about the issue and about A.B. 147.

James Cohen, M.D.:

I have been an oncologist specializing in breast cancer for 33 years. Those who oppose this bill may believe if a woman has heterogeneously dense breast tissue, which increases the risk of breast cancer and decreases the ability to detect it, that there is nothing further that can be done. However, there is a test called SonoCine Breast Ultrasound, it is FDA approved, does not require radiation therapy, and in women with dense breast tissue, it doubles the ability to detect cancer.

Dense breast tissue is associated with an increase of breast cancer, and there are things women can do to decrease the density in their breasts. Alcohol increases breast density. We have known for years that women who have two drinks a day have an increased risk of breast cancer. Exercise decreases breast density. Post-menopausal women who want to take hormones should be informed hormones increase breast density. I disagree with the opponents of A.B. 147 that nothing can be done about breast density.

Chair Jones:

Assemblyman Ohrenschall, are you in support of the amendment from Denise Selleck Davis, [Exhibit C](#), page 1, which would turn A.B. 147 into a study?

Assemblyman Ohrenschall:

I cannot see waiting 2 years to give women the information they need. I have read and heard about the false negative mammograms provided to 40 percent of the women in Nevada who have dense breast tissue. I would not consider that amendment friendly.

SENATOR SEGERBLOM MOVED TO DO PASS A.B. 147.

SENATOR SMITH SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR HARDY VOTED NO.)

Chair Jones:

We will open the hearing on A.B. 393.

ASSEMBLY BILL 393 (1st Reprint): Expands the rights of children placed in foster care. (BDR 38-919)

Ms. Lyons:

I will read from the work session document for A.B. 393 ([Exhibit E](#)).

SENATOR SMITH MOVED TO DO PASS A.B. 393.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chair Jones:

We will open the hearing on A.B. 126.

ASSEMBLY BILL 126 (1st Reprint): Requires the disclosure of certain nutritional information in certain chain restaurants. (BDR 51-81)

Ms. Lyons:

I will read from the work session document ([Exhibit F](#)). The Proposed Amendment 8915 was presented in the Committee. It revises the definition of a restaurant or similar retail food establishment. It also removes a criminal penalty and establishes a civil penalty.

Chair Jones:

We will move the vote on A.B. 126 to the bottom of the agenda and open the hearing on A.B. 286.

ASSEMBLY BILL 286 (1st Reprint): Requires the provision of emergency medical personnel and emergency medical services at the site of certain special events. (BDR 40-526)

Ms. Lyons:

I will read from the work session document ([Exhibit G](#)).

SENATOR SMITH MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 286.

SENATOR SEGERBLOM SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chair Jones:

We will open the hearing on A.B. 209.

ASSEMBLY BILL 209 (1st Reprint): Revises provisions governing the distribution and sale of raw milk. (BDR 51-1011)

Ms. Lyons:

I will read from the work session document ([Exhibit H](#)). The proposed amendment was submitted by a member of the public, Paula Terrel.

Chair Jones:

Assemblyman Aizley, will you please comment on the amendment? Has Ms. Terrel approached you with this amendment, and are you amenable?

Assemblyman Paul Aizley (Assembly District No. 41):

I have not seen this amendment. The more frequent inspections required in A.B. 209 are appropriate. I would not agree to the amendment.

Senator Kieckhefer:

I had significant reservations about this bill and thought the data regarding public health issues were compelling. I now realize this bill is creating a more professional dairy environment within the raw milk industry. The safety and sanitation provisions that relate to the professional environment would alleviate the public health concerns. In a more professional environment, sanitation is key. I am comfortable moving forward with this bill.

Senator Smith:

I will not be supporting A.B. 209. I cannot see my way clear to support a bill against which our State health officer and the health districts testified. I am relying on the science and advice they have provided.

SENATOR SEGERBLOM MOVED TO DO PASS A.B. 209.

SENATOR KIECKHEFER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS HARDY AND SMITH VOTED NO.)

Assemblyman Aizley:

I am also concerned about the stories we heard about raw milk. It should be recognized that people in Nevada are drinking raw milk, and this bill is an attempt to make it safer.

Chair Jones:

We will open the hearing on A.B. 79.

ASSEMBLY BILL 79 (1st Reprint): Revises provisions relating to early childhood education programs. (BDR 38-199)

Ms. Lyons:

I will read from the work session document ([Exhibit I](#)).

SENATOR HARDY MOVED TO DO PASS A.B. 79.

SENATOR SEGERBLOM SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Jones:

We will open the hearing on A.B. 93.

ASSEMBLY BILL 93 (1st Reprint): Makes various changes concerning investigations relating to child care facilities. (BDR 38-61)

Ms. Lyons:

I will read from the work session document ([Exhibit J](#)).

SENATOR HARDY MOVED TO DO PASS A.B. 93.

SENATOR SEGERBLOM SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Jones:

We will open the hearing on A.B. 109.

ASSEMBLY BILL 109 (1st Reprint): Revises the qualifications and training required for certain persons who operate or are employed by a child care facility. (BDR 38-271)

Ms. Lyons:

I will read from the work session document ([Exhibit K](#)).

SENATOR HARDY MOVED TO DO PASS A.B. 109.

SENATOR SEGERBLOM SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chair Jones:

We will open the hearing on A.B. 174.

ASSEMBLY BILL 174 (1st Reprint): Revises provisions governing proceedings relating to the abuse or neglect of a child. (BDR 38-991)

Ms. Lyons:

I will read from the work session document ([Exhibit L](#)).

SENATOR HARDY MOVED TO DO PASS A.B. 174.

SENATOR SEGERBLOM SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chair Jones:

We will open the hearing on A.B. 348.

ASSEMBLY BILL 348 (1st Reprint): Revises provisions relating to foster care. (BDR 38-457)

Ms. Lyons:

I will read from the work session document for A.B. 348 ([Exhibit M](#)). Alex Ortiz from Clark County submitted the first amendment. It was not an amendment presented at the hearing, so you may have questions. Ken Lange from Nevada Youth Care Provider Inc. also submitted an amendment subsequent to the hearing.

Alex Ortiz (Clark County):

Lisa Ruiz-Lee, Director, Clark County Department of Family Services (DFS), will do a walk-through of the amendment proposed by Clark County on pages 2 through 5, [Exhibit M](#).

Lisa Ruiz-Lee (Director, Clark County Department of Child and Family Services):

The first item on the amendment was requested by the Legal Aid Center of Southern Nevada and is included in A.B. 348, section 35, subsection 5. This will add clarifying language regarding the placing of juvenile justice children and child welfare children within the same home. The existing statutory language in *Nevada Revised Statute* 432B.390 provides direction for this situation. The amendment will add the same statutory language to A.B. 348.

The second item of the amendment is in section 45 proposing to delete subsection 3 of A.B. 348. This change was based on feedback we received after the original presentation of A.B. 348. The section was about the licensing authority's ability to suspend or revoke licenses. After many conversations and much thought, we decided to propose deleting that portion of the bill.

Senator Kieckhefer:

Did this section of the bill give the licensing authority the ability to revoke the license of a foster home and not the agency?

Ms. Ruiz-Lee:

That is correct; this was specific to a foster home and not to a foster agency.

Senator Kieckhefer:

Was this designed to stop foster homes from cherry-picking the children they wanted?

Ms. Ruiz-Lee:

That was the original intent behind the language. We were trying to address two situations in this section. The first is families who use DFS for licensing but have no intention of fostering or adopting through us. They ask DFS to conduct a study, and then they use the study for private adoptions.

The second part of the language allowed us to address those families we have worked with, developed home studies and identified their preferences for placements, but then they continue to reject the placements. We included this language to give us leverage to address those issues.

Our licensed foster homes were nervous that we would use that language in a punitive way. This was not our intent. We have removed the language and plan to address those issues through policies, procedures and contracts.

Chair Jones:

One of the issues at the previous hearing on A.B. 348 was section 14, subsection 1. Can you address why this was not included in your amendment?

Ms. Ruiz-Lee:

Section 14, subsection 1, was related to the conflict of interest around those who are employees, vendors or contractors with agencies and wish to be licensed foster care providers through that agency. The original language established a prohibition against this activity. However, a representative of one of our largest providers came to the table and voiced concerns about the prohibition. He was a director of an agency and a licensed foster parent. He wanted to continue to take in foster children. After many hours of negotiation with this person and Nevada Youth Care Providers Inc., we decided we would allow a person to work for an agency and provide foster care with the licensing authority's permission. The approval process will be established as we develop policies and procedures. We have spent a lot of time and energy on this section and reached an amenable agreement. We did not need to address it again in this amendment.

Senator Hardy:

How long does it take DFS to develop policies and procedures?

Ms. Ruiz-Lee:

We have been developing policies and procedures in foster care agencies for more than 10 years. We have pending ones that are ready for approval. We will have to develop new policies and procedures for the new items in this legislation. We hope to have them all finished and implemented within the next 6 to 9 months.

Senator Hardy:

Will the person who is employed with a contracting agency and a foster parent need to wait 6 to 9 months?

Ms. Ruiz-Lee:

No. Placement stability is the first priority. The DFS does not want to revoke licenses, move children or disable placements. There is no intention to remove a person's license if we want him or her to continue as a foster parent. We will operate with business as usual as we write the policies and procedures. We

would also be amenable to delay the implementation date of the statutory changes long enough to have the policies and procedures in place.

Senator Hardy:

Do you want to eliminate the foster agencies?

Ms. Ruiz-Lee:

No. There were several misconceptions surrounding this bill; one of them was that we wanted to eliminate the foster agencies. This is not true. We are creating a structure that allows us to have quality agencies and quality foster parents for our children.

Senator Hardy:

Have you read the proposed amendment, [Exhibit M](#), from Ken Lange and Nevada Youth Care Providers Inc.?

Ms. Ruiz-Lee:

We have met with Mr. Lange and Nevada Youth Care Providers Inc. and reviewed their proposed amendments. We did move some of their language into our bill draft. There were other proposals we were not willing to accept. The preference of DFS is that you accept the amendment and the draft language we presented and you do not accept the Nevada Youth Care Providers Inc. amendments. Their amendment will delete the majority of the bill.

Senator Hardy:

I am reluctant to use statute when we could use regulations and better address the concerns of the stakeholders.

Ken Lange (Nevada Youth Care Providers Inc.):

We appreciate that DFS has deleted section 45, subsection 3. That removes one of our major concerns. We agree with large portions of A.B. 348. We had trouble with mixing policies and procedures language and statutory language. In our amendment, we tried to take out portions of the bill that should be handled in the policy and procedure or regulatory process. This amendment would give the Committee the opportunity to suggest broader categories for these statutes. Without our suggested changes, this legislation would be fatally flawed. Section 45 has been addressed, but we are still concerned that the approval process is potentially disruptive to a number of our agencies. Another of our concerns is that the agencies will be required to maintain open-ended

responsibilities for the cost of substantiated investigations on their contracted foster homes. This could be expensive for some of our small agencies. There is an issue with penalizing a third-party contractor for the behavior of an entity over which we only have contractual authority. We do not have moral or behavioral authority.

Ms. Ruiz-Lee discussed the issue of the time between the implementation of the statute and the development of the policies and procedures. We suggest the Committee change the implementation date and give a strong recommendation that we all get busy. Other than our suggestions, A.B. 348 contains good language that should be implemented.

Chair Jones:

In your amendment, you proposed we delete section 4 through section 10. In reviewing those sections, I do not see anything that indicates this is outside the bounds of what we normally include in statute. It is consistent with what is commonly included in statute. Why would we only be able to deal with those issues in the regulatory or policy and procedure context?

Mr. Lange:

The original statute promulgated in 2009 anticipated correctly that the Department of Health and Human Services would work with all the stakeholders to develop the policy and procedures from which the licensure scheme would flow. This proposed legislation is a reverse flow in terms of being able to manage unintended consequences, details and multiple stakeholders. We have been able to work on this bill. However, other stakeholders do not have the access here that they would have in the regulatory or policy and procedure process.

Chair Jones:

Have you discussed your amendment with the sponsor of this bill? Does the sponsor agree with your amendment?

Mr. Lange

We did have conversations with the sponsor, and it appears we are at an impasse.

SENATOR KIECKHEFER MOVED TO AMEND AND DO PASS A.B. 348
WITH CLARK COUNTY'S AMENDMENT.

SENATOR SMITH SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS HARDY AND SEGERBLOM VOTED NO.)

Senator Segerblom:

I would encourage DFS to keep the lines of communication open and to work with the foster care agencies.

Chair Jones:

We will open the hearing for A.B. 351.

ASSEMBLY BILL 351: Revises provisions governing the medical use of marijuana. (BDR 40-733)

Ms. Lyons:

I will read from the work session document for A.B. 351 ([Exhibit N](#)). There is a proposed amendment from Senator Jones ([Exhibit O](#)).

Chair Jones:

The sponsor of A.B. 351, Assemblyman Horne, is amenable to this amendment. The amendment will replace the bill with a study regarding the limits on driving under the influence of certain substances. The study must include consideration of limits on marijuana metabolite when applied to a person who has a registration card authorizing that person to use marijuana for medical purposes.

Senator Kieckhefer:

I appreciate this going into further review to look at the science. I was not comfortable with the bill. I would hope that the Legislative Committee on Health Care would determine in the interim if what we have in statute is an actual indication of impairment while driving. We will need to know if there is justification for separate standards for different classes of people.

Senator Hardy:

We do not have enough data, and I appreciate that this is going to a study. The study will not be limited to our own information. There will be many presentations that will provide a good deal of information.

Senator Segerblom:

This amendment is workable, and it is time we do this study.

SENATOR SEGERBLOM MOVED TO AMEND AND DO PASS AS
AMENDED A.B. 351.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Jones:

We will reopen the hearing for A.B. 126.

SENATOR SEGERBLOM MOVED TO AMEND AND DO PASS AS
AMENDED A.B. 126.

SENATOR SMITH SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS HARDY AND KIECKHEFER VOTED
NO.)

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Chair Jones:

The meeting adjourned at 4:27 p.m.

RESPECTFULLY SUBMITTED:

Joyce Hinton,
Committee Secretary

APPROVED BY:

Senator Justin C. Jones, Chair

DATE: _____

<u>EXHIBITS</u>				
Bill	Exhibit		Witness / Agency	Description
	A	2		Agenda
	B	5		Attendance Roster
A.B. 147	C	2	Marsheilah D. Lyons	Work Session Document
A.B. 147	D	9	Assemblyman James Ohrenschall	Breast cancer detection
A.B. 393	E	1	Marsheilah D. Lyons	Work Session Document
A.B. 126	F	4	Marsheilah D. Lyons	Work Session Document
A.B. 286	G	8	Marsheilah D. Lyons	Work Session Document
A.B. 209	H	1	Marsheilah D. Lyons	Work Session Document
A.B. 79	I	1	Marsheilah D. Lyons	Work Session Document
A.B. 93	J	1	Marsheilah D. Lyons	Work Session Document
A.B. 109	K	1	Marsheilah D. Lyons	Work Session Document
A.B. 174	L	1	Marsheilah D. Lyons	Work Session Document
A.B. 348	M	10	Marsheilah D. Lyons	Work Session Document
A.B. 351	N	1	Marsheilah D. Lyons	Work Session Document
A.B. 351	O	1	Marsheilah D. Lyons	Proposed Amendment