

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

**Seventy-Eighth Session
May 6, 2015**

The Senate Committee on Health and Human Services was called to order by Vice Chair Ben Kieckhefer at 4:01 p.m. on Wednesday, May 6, 2015, 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 Joe P. Hardy, Chair
Senator Ben Kieckhefer, Vice Chair
Senator Mark A. Lipparelli
Senator Joyce Woodhouse
Senator Pat Spearman

GUEST LEGISLATORS PRESENT:

Assemblyman Nelson Araujo, Assembly District No. 3
Assemblywoman Michele Fiore, Assembly District No. 4

STAFF MEMBERS PRESENT:

Marsheilah Lyons, Policy Analyst
Eric Robbins, Counsel
Debra Burns, Committee Secretary

OTHERS PRESENT:

Brian Wilson
Valerie Wilson
Megan Bedera, Vice President, Nevada Firearms Coalition
John Wagner, State Chairman, Independent American Party
Wayde Yeley
Juanita Clark, Charleston Neighborhood Preservation
Jan Flanagan

Senate Committee on Health and Human Services
May 6, 2015
Page 2

Jill Marano, Deputy Administrator, Family Programs, Division of Child and Family Services, Department of Health and Human Services

Michael Knight, Assistant Director, Permanency Services, Family Services, Clark County

Denise Tanata Ashby, Executive Director, Children's Advocacy Alliance

Deborah M. Williams, Manager, Office of Chronic Disease Prevention and Health Promotion, Division of Community Health, Southern Nevada Health District

Michael Thompson, President, Child Care Association of Nevada

Ben Graham, Administrative Office of the Courts, Supreme Court

Alina Kilpatrick, Deputy Public Defender, Public Defender, Elko County

Barry Lovgren

Cindy Brown

Mona Lisa Samuelson

Scott Leedom, Southern Nevada Water Authority; Las Vegas Water District

Alex Ortiz, Clark County

Kyle Davis, Nevada Conservation League

Daniel Fischer, Deputy General Manager, Clark County Water Reclamation District

Bob Sack, Director, Environmental Health Services, Washoe County Health District

Brigid Duffy, Chief Deputy District Attorney, Juvenile Division, District Attorney, Clark County

Senator Kieckhefer:

We will open the hearing with Assembly Bill (A.B.) 167.

ASSEMBLY BILL 167: Authorizes the storage and carrying of firearms and ammunition on the premises of a family foster home or by certain persons who reside in a family foster home under certain circumstances. (BDR 38-234)

Assemblywoman Michele Fiore (Assembly District No. 4):

I want to introduce two of my constituents, Brian and Valerie Wilson. This bill addresses an issue that has affected them, as well as two Las Vegas Metropolitan Police Department (LVMPD) officers in my district who were turned down as foster parents. I have submitted my written testimony ([Exhibit C](#)).

Section 1 allows a lawful gun owner who is also a foster parent to store a firearm, loaded or unloaded, securely locked in a gun safe that would prevent children from having access to the firearm. Section 1 also allows foster parents who work in law enforcement or those who possess a concealed firearm permit to carry weapons on their persons in a manner which ensures the firearm is inaccessible to any foster child. Assembly Bill 167 does not allow a firearm to be in a drawer, under a pillow, hidden on the top shelf of a closet, in a purse or in the glove box of a car.

Section 2 exempts certain people such as temporary caregivers from the requirements of A.B. 167, addressing emergency placement issues.

Section 3 voids any regulation that conflicts with A.B. 167.

Section 4 makes A.B. 167 effective upon passage of this bill.

This bill was drafted based upon a law in Utah and follows the same policies. The Utah law has, for many years, been without any incident.

The same background check required to become a foster parent is required to grant a person a permit to carry a concealed weapon (CCW). The Division of Child and Family Services (DCFS) suggested limits on the number of firearms and more stringent locking requirements, though DCFS employees are not trained on firearms. The Assembly rejected these proposed conditions as unenforceable. The strict requirements we have written into A.B. 167 address safety concerns but still allow foster parents their constitutional right to protect themselves.

In all our counties, we have children awaiting a foster parent, a person willing to give them that love they need. Currently, qualified foster parents must travel to Utah to find children.

On a personal note, I toured Child Haven many years ago. I was saddened when I saw seven infants in a room motioning for attention and calling me Mommy, and I knew with only one attendant, those children would not be picked up. Then I see qualified parents who are ready to love and care for a child be disqualified and denied because they hold CCW permits, and it is heartbreaking.

Brian Wilson:

I would like to tell you why A.B. 167 is so important to my wife and me, and more important, to the children in Nevada.

My wife, Valerie, and I have been together for 24 years. We met when we were 16. We moved to Las Vegas while young; I was 20 at the time. We consciously decided to spend the early years of our marriage building a business, establishing ourselves and setting ourselves up for later in life, intending to hold off having children until later. In 2013, we decided to start a family by adopting. The options for private adoption are primarily infants, with dozens of families lined up to adopt each one. We saw the advertisements recruiting foster parents, showing there are hundreds of children in the system desperately needing a home, any home. We concluded that we could be parents to an older child, and being honest, there are not many persons willing to adopt older children, 10- or 12-year-olds.

When we started through this process's parenting classes, we discovered a regulation mandating firearms and ammunition must be stored in separate locking safes. As a CCW permit holder for over 20 years, this was not a suggestion of how these firearms and ammunition should be stored when not in use, it is a mandate requiring this storage at all times if one is to be a foster parent.

An exemption is available for law enforcement personnel mandating the storage of that officer's weapon in two separate locking boxes from arrival in that officer's driveway before entering his or her own home. Does anyone believe this regulation is being complied with? Are we setting up the situation to be violated?

Those of us who are familiar with firearms know the highest rate of accidental discharges and accidents is during loading and unloading of the firearm. This mandate forces a higher incidence of risk. It is far safer to take the firearm and lock it in a safe.

When we found this regulation, we found there was a waiver process. The waiver entails requesting a special waiver and submitting plans to the administrator. We approached our administrator and proposed a waiver allowing us to store our loaded weapons in a biometric safe, as a firearm is useless

unless loaded. We were denied. We appealed that waiver, and again were denied.

Last year in the interim, we went to the Legislative Commission with an almost identical regulation to the one the DCFS wanted, exempting police from the firearms rules regarding foster care; ours also exempted CCW holders. When we were trained to carry our concealed weapons, the trainer clearly advised us to keep our firearms on our persons, on our bodies.

There are many homes just like ours. We have been fighting for this for 2 years. We have watched the other families in our parenting classes go away when they heard this regulation. During the process, a State official advised us to go to another state to adopt or foster where the regulation does not apply. This is insanity to leave our kids stuck in the system while we go to Utah and get a child to rear in Nevada—a Nevadan encouraging another Nevadan to go to Utah to adopt or foster that state's children. I could not walk away without doing something to fix this madness. Though we have the option to adopt privately or in another state, these Nevada kids are not as fortunate as we are to be able to afford those options. These children do not get a home.

Valerie Wilson:

This issue is not just about Brian and me applying and getting a foster home license. It is about the kids. It is about those thousands of children sitting in the foster care system. It is about the children stuck in Child Haven.

Our journey started with Brian and me being denied licensure to be a foster care home because we have CCW permits to protect our home and family. As we went through the process, we saw other families who experienced the same. We knew in our hearts that this was our calling. We could do something to get this fixed. There were a few families in our foster parenting classes who dropped out when they learned they could not qualify because they also had CCW permits and carried firearms. Those families could have provided loving, safe, stable homes.

As we progressed further in this journey, we encountered several other families who wanted to foster that would not even apply, knowing they would be turned away.

We feel fostering children is a calling from God. It is not an easy task. Caring for someone else's child as your own and knowing the child could return to his or her birth parents at any time is hard.

The DCFS knows it is hard to find families to care for these children. Why is the DCFS turning its back on law-abiding citizens who want to help? The CCW holders have undergone background checks. We hold the decision to carry a firearm in the utmost respect for safety, in and out of our homes at all times. Assembly Bill 167 is about the children. If you pass this bill, you will be giving children a chance for life in loving homes with parents who want to love them, even knowing they may lose them at any time and the heartbreak that will cause.

Mr. Wilson:

I spoke with Senator Hardy a few weeks ago about A.B. 167. He requested that Valerie and I do some research. Twenty-five states currently allow loaded firearms in one or another fashion in foster homes. Some have them for hunting, and some allow their children to use firearms for hunting or target practice. Nine states allow CCW holders who provide foster homes to carry firearms specifically by statute. Eight more states allow law enforcement personnel specifically to carry firearms and be foster families. We contacted every one of the 25 states, and not a single injury or incident has been reported involving a firearm and a CCW holder providing a foster home. There is not a single one.

Senator Kieckhefer:

I see you have done your homework.

Assemblywoman Fiore:

We who sponsored A. B. 167 want to clarify that the purpose of this bill is to allow CCW holders and law enforcement personnel to be able to provide foster homes to Nevada children and carry their concealed weapons. There exists no CCW holder incident involving the accidental discharge of a firearm.

Megan Beder (Vice President, Nevada Firearms Coalition):

The Nevada Firearms Coalition supports A.B. 167. The proponents of this bill gave you facts to consider when considering its passage, but we hope you keep in mind the children with no other place to go, along with these families who want to provide loving homes. We are not speaking about just any person; we

are talking about people who carry CCW permits. They know and abide by the rules that that come with those permits.

John Wagner (State Chairman, Independent American Party):

To me, this is almost a fairness issue. It takes a special person to be able to take a foster child, something I could not do. When these persons are told they do not have the right to have guns in their houses, locked up, in case they need them for self-protection, I think that is wrong. These people are not second-class citizens because they are foster parents. Foster parents deserve special applause. I could not do it and know few people who would want that responsibility.

Wayde Yeley:

Both my wife, Cheryl, beside me, and I support A.B. 167. I am an Air Force veteran and small business owner. My wife is employed full-time in a church. We both have concealed weapons permits.

Last week when we went through the parenting classes, we discovered we were going to be denied licensure as foster parents because we have CCW permits.

For 4 years, we were guardians for a little boy and girl who were family members. During that time, I regularly carried a concealed weapon. There was never an incident with the kids. We taught the kids firearm safety, and always had our guns locked up or on our persons. Law enforcement and CCW permit gun owners are not your average gun owners. We have passed background checks and had weapons training. We have just completed the third week of our foster parent licensing classes. We hope to be able to start fostering sometime this summer.

We both urge the passage of A.B. 167 to enable Nevadans to help kids in need and still have the opportunity to protect our families.

Juanita Clark (Charleston Neighborhood Preservation):

Although I hear some defensiveness from some people, it is a qualification and honor to live in a home protected in this manner, if necessary. Assembly Bill 167 should provide a greater qualification giving credence to the people taking foster children into their homes. In certain instances, some people's views are slanted, almost a form of discrimination contrary to our

national Constitution, though our State Constitution it obviously is. This should not be regarded as a handicap, rather, a great plus. I support this bill.

Senator Lipparelli:

In section 1, subsection 3, paragraph (b), A.B. 167 states, "a combination or other similar means." Do we include biometric locks and the use of certain kinds of safes, or is there a limitation here?

Mr. Wilson:

Yes, the provision to allow the use of biometric safes and more modern technologies that provide more security are exactly what we mean.

Senator Lipparelli:

Would A.B. 167 provide fewer reasons to say no?

Mr. Wilson:

Yes, Senator Lipparelli, that is correct.

Jan Flanagan:

On behalf my grandchildren and my great-grandchildren and of myself, I am here to testify to keep all children safe, whether foster children or children born into a home. There is nothing wrong with the existing regulations. Many foster families are operating under these existing rules. They do an excellent job and are the real heroes of our communities.

I feel A.B. 167 takes us in the wrong direction. Nevada's constitutional restrictions on foster families should be a model for all families. I believe all firearms should be locked up, stored in a safe place and in a safe manner with ammunition stored separately. Our family has done this for 50 years. We all know children are curious. I would bet most children would know where and how the family firearms are stored.

We know of tragic firearm accidents that have devastated our families and communities. I urge you to keep these constitutional restrictions on firearms in foster homes and extend these constitutional restrictions to all family homes.

Jill Marano (Deputy Administrator, Division of Child and Family Services, Department of Health and Human Services):

I would like to present some of the Division of Child and Family Services (DCFS) concerns with A.B. 167. The DCFS has concerns addressed in our proposed amendment ([Exhibit D](#)) that, with its adoption, would change our position to neutral.

Nevada firearm statutes do allow a Nevada foster parent to possess a firearm; however, there are restrictions of how those firearms and ammunition must be secured and stored. These decisions were made to ensure the safety and security of children in foster care. The reason for this is that children in foster care have experienced significant trauma. They have mental health and behavioral health concerns at a much higher rate than the general population. Children in foster care have higher rates of depression, impulse control issues and other mood disorders that make them highly reactive to situations. These situations place these children at a significantly higher risk to use firearms on themselves or others. For these reasons, current regulations are restrictive and prescriptive on how firearms are stored in foster homes. These were not designed to restrict a foster parent's rights or to deny certain people the right to become foster parents, but solely to ensure the safety of children and to take all possible steps to deny the children access to such firearms.

I would highlight that being a foster parent is not a right. People do not have to follow our rules and regulations; they can choose not to be foster parents. A privilege brings certain requirements and responsibilities. Foster parents own the big responsibility to take care of someone else's child. Inherently, there is a big responsibility in caring for someone else's child in your home. These higher standards are addressed and evident in all the DCFS regulations; all our regulations are designed to help ensure the safety and well-being of children. Hundreds of regulations apply only to our foster parents and not to the general population. Gun storage and accessibility to firearms is only one of them.

I would like to address a few statements made by the proponents in this hearing and the prior hearing in the Assembly. One statement made was that many foster care parents were not licensed due to this regulation. Another was that maybe we were missing out on many foster homes. By comparison, in rural Nevada, we tend to be a bit more liberal than the urban child welfare agencies with how often we issue waivers. We have had four waiver requests in rural Nevada for this issue and all were granted. All four were requested by law

enforcement or court personnel who needed firearms for their employment. We have had no requests for a waiver from a CCW permit holder. Washoe County reports three such waiver requests in the last 4 years.

Senator Lipparelli:

Did you state that all four of the waivers requested were granted in rural settings?

Ms. Marano:

You are correct; my agency reported that all those were rural.

Senator Lipparelli:

Were any waivers granted in the non-rural, or urban, setting?

Ms. Marano:

Washoe County reported that they had three requests and granted all three.

Senator Lipparelli:

What would be the reason for denying a waiver request?

Ms. Marano:

Each agency has discretion to grant or deny waivers. One reason that may be applicable is that it may affect our federal funding. We can no longer collect federal funds on a home once we have issued a waiver.

There have been issues raised of overcrowding in shelters, particularly in Child Haven. I have Mr. Knight here from Child Haven, so please address any specific questions about Child Haven to him. It is common that children who are in shelters have significant behavior and mental health concerns and issues. These are the children we have the most difficult time placing. The testimony in the Assembly acknowledged that children with significant behavioral and mental health concerns might not be the most appropriate children to place in these types of homes. This may be a caution—this may not be a solution to a vast reduction in numbers of children in shelter care.

I wish to provide information on circumstances around child death in Nevada. While we have not had instances across the Country regarding foster parents with guns and accidents, we see a high number of deaths involving guns in Nevada. Since 2011, the largest category of unnatural causes of child death is

sleep-related deaths. These include co-sleeping or unsafe sleep environments. In the last 4 years, 123 children died from these causes, the vast majority were under the age of 1 year.

The next highest cause of child death in Nevada is gun-related deaths, of which we had 61. Motor vehicle accidents are the third highest cause of child death; 54 children died in motor vehicle accidents while being passengers. The fourth highest cause of child death since 2011 is drowning, which caused the death of 38 children in Nevada.

Senator Kieckhefer:

Can you tell me how many of those gun-related deaths involved people with a CCW permit versus those who did not?

Ms. Marano:

I do not have that information. If that is tracked in our database, I will be happy to bring that information back.

Another fact about our current regulation is that it is in line with national best practices for storage of weapons recommended for licensing foster homes. The set of national recommendations was developed by the Annie E. Casey Foundation, the American Bar Association Center on Children and Law, Generations United and the National Association for Regulatory Administration. Our regulations are written out exactly as the national experts advise.

Mr. Wilson testified to the number of states with different carrying and storage requirements. Our information is curiously different. The National Resource Center for Family-Centered Practice and Permanency Planning indicates that 40 states have gun laws similar to Nevada's in which the weapons are required to be locked and unloaded with ammunition stored separately. Seven states allow a law enforcement exemption.

The DCFS is comfortable with our current regulation. We are satisfied to keep things the same, but we are interested in working with the proponents and advocates of A.B. 167 to try to find a solution that not only addresses the concerns about the need for firearms for personal safety and home protection, but that maintain adequate controls to ensure child safety.

Mr. Wilson also testified that in August 2014, DCFS was able to revise our *Nevada Administrative Code* (NAC) chapter 424 regulations on licensing foster homes. At that time, we attempted to loosen the requirements by allowing an exemption for law enforcement; however, this change was opposed, and we were not able to move forward with the change. We met on a couple occasions with the proponents of A.B. 167 to work out a friendly amendment. We found common ground on a few areas, but on a couple areas, we could not come to a consensus.

The DCFS has created an amendment ([Exhibit D](#)) for the Committee's review. The amendment focuses on three basic issues: the storage of firearms, carrying of firearms, and agency liability. Regarding the storage of firearms, we allow two loaded firearms in the home, so home defense and personal safety weapons are available. We would like to see an additional locking mechanism on those weapons. We propose any other firearms be unloaded with ammunition locked and stored separately, as it is currently. On the National Rifle Association's Website, three rules are listed for gun safety: keep your gun pointed in a safe direction, keep your finger off the trigger until you are ready to shoot, and always leave your gun unloaded unless you are ready to use it.

The second issue is the carrying of firearms. The DCFS proposes more restrictive language, specifying that the gun must be holstered on your person rather than kept in a briefcase or a backpack on your shoulder.

Finally, both the DCFS and the proponents of the bill had consensus on agency liability. Our revision clarifies that the local child care agency would be held harmless should an accident occur.

Senator Kieckhefer:

Did you present this amendment to the Assembly?

Ms. Marano:

No, we did not present it to the Assembly. We were unable to work it out before the hearing.

Michael Knight (Assistant Director, Permanency Services, Family Services, Clark County):

The Clark County Department of Family Services (DFS) opposes A.B. 167. As Ms. Marano adequately expressed our concerns regarding the bill, I do not want to rehash what she explained.

The children the DFS serves are often victims of neglect. They do not always associate guns with safety. We want to be cognizant of the children we are serving, the trauma they have experienced, and being aware of child safety is our mission and goal. Ms. Marano cited research regarding licensing foster homes for weapons. The research specifically outlines model core standards, which include firearms be locked away. In all 50 states, there are similar, commonsense safety precautions, including firearms being locked and stored away.

Ms. Marano referenced developed model family foster home licensing standards specifying weapons required to be stored in an inoperative condition and locked away, inaccessible to children. This includes all ammunition, arrows and projectiles to be stored separately from the weapons. These are some suggestions recommended by research guiding the licensing of foster homes, as we know it in Nevada. We believe our regulations speak to those same situations.

To my knowledge, the DFS in Clark County has never denied a foster home license to a parent for having a CCW permit since beginning to license foster homes. We have, in the past, denied licensees who stated they would not comply with the regulation, whether the storage and safekeeping of firearms, chemicals, or such. If a licensee had a cleaning company using chemicals designated to be kept out of the reach of children, but declared they would refuse to abide by the regulation, we would deny the license to provide a foster home in Clark County.

Senator Lipparelli asked why a jurisdiction would not grant a waiver. Clark County has not had to grant a waiver for firearms-related issues. We have foster parents who are law enforcement officers. To the question posed earlier that asked whether a LVMPD officer would unholster his or her weapon, take the ammunition out and carry them in separately, the answer is yes. We work with our law enforcement partners on a daily basis. Many of them are foster parents. If a respected member of the community tells us how they will comply

with the regulations, we believe that is what they will do. Obviously, the DFS cannot be in foster homes 24 hours a day, 7 days a week, nor should we have to. When LVMPD officers tell us how they are going to comply with a regulation, we believe that is what they are going to do.

Senator Lipparelli:

Can you give me some sense of how many regulation violation citations you have issued to those that have not complied?

Mr. Knight:

I do not have that information with me. I will be happy to go back through and review to see if we have issued any regulation violations.

Senator Lipparelli:

Do you recall any instance where personnel from your department made you aware of anything stored in violation of the regulations?

Mr. Knight:

No, I have not had any instance. Clark County appreciates the work the DCFS has undertaken with the authors of A.B. 167 to propose some amendments. We have seen and read the amendments. While we believe child safety is of primary importance, the amendments are a step in the right direction and we will change our position to neutral if those amendments are accepted.

Assemblywoman Michelle Fiore (Assembly District No. 4):

On the record, Clark County has advised some potential foster parents not to apply for waivers when holding a CCW permit, as they will not be granted. We have had two incidents, for the record, where a caseworker in Clark County told two foster care applicants to disclose nothing about the concealed weapons permit as the DCFS never checks. The foster care applicants were told that DCFS would not be there checking. If a foster parent were to be caught because a child disclosed his or her new mommy or daddy carried a gun on his or her body, it would be a direct violation. We would like it if the law would be abided with.

Senator Kieckhefer:

I will close the hearing on A.B. 167 and open the hearing on A.B. 152.

ASSEMBLY BILL 152 (1st Reprint): Enacts certain requirements governing child care facilities. (BDR 38-623)

Assemblyman Nelson Araujo (Assembly District No. 3):

I am here to present Assembly Bill 152, which would require the State Board of Health to adopt regulations for children's meals in early childhood care facilities as well as regulations regarding the children's physical activity in those facilities. I learned the severe statistics impacting our children every day in Nevada. Ms. Tanata Ashby is here as the Director of the Children's Advocacy Alliance (CAA) to point out key statistics. Twenty-five percent of our children are considered overweight or obese. This is a severe challenge, and A.B. 152 is a great way for us to take on this challenge to ensure our children are well prepared to take on the future and live healthy, productive lives.

Denise Tanata Ashby (Executive Director, Children's Advocacy Alliance):

The background for this bill came from a report published in 2010 by the National Resource Center for Health and Safety in Child Care and Early Education titled, *Preventing Childhood Obesity in Early Care and Educational Programs: Selected Standards from Caring for Our Children: National Health and Safety Performance Standards; Guidelines for Early Care and Education Programs, 3rd Edition*. The report outlines specific policy recommendations aimed at improving nutrition, physical activity and screen time standards in early childhood education settings. An analysis of these recommendations was conducted in comparison to the NAC, which found that as of December 2010, Nevada fully met only 3 of the 47 recommended standards. I have submitted my written testimony (Exhibit E) with supporting documentation: "NAC Revisions to Improve Physical Fitness & Nutrition in Early Childhood Education Settings" (Exhibit F), and "Achieving a State of Healthy Weight: 2013 Update" (Exhibit G) from the CAA.

I will go through provisions of A.B. 152. Section 2 will require the State Board of Health to adopt regulations for guidelines for meals and snacks provided by a child care provider; the section is only applicable to those providers already offering meals or snacks. These do not apply to parent-provided food or to child care providers who do not already provide snacks or meals.

Senator Kieckhefer:

Is this guideline something they are not required, just recommended, to follow?

Ms. Tanata Ashby:

We are asking these regulations be required.

Senator Kieckhefer:

In regard to what, for instance, calorie and fat content, sugar allowances and such?

Ms. Tanata Ashby:

The Child and Adult Care Food Program has established meal pattern guidelines based on age of the child. This is one example of a guideline that could be implemented.

Another recommendation is to require that food or snacks be served in portion sizes appropriate for the age of the child, including specific requirements for milk, dairy products and juice, and limiting the fat and sugar content of meals and snacks. We suggest allowing parents or guardians to request alternate feeding plans for their children, and ensuring the regulations do not apply to meals and snacks provided by the parents or guardians.

Section 3 of A.B. 152 would require the Board of Health to adopt regulations requiring a licensee to provide a private area for breastfeeding. Section 3 also requires the adoption of regulations regarding physical and sedentary activity in child care facilities. These would include, but not be limited to providing a program of physical activities of moderate to vigorous physical activity appropriate to the age of the child, allowing specialized plans for children with special needs and disabilities, limiting sedentary activity other than meals and snacks, prohibiting facilities from withholding physical activity as a form of discipline, and providing definitions for physical and sedentary activity in child care facilities. Section 4 was deleted by amendment in the Assembly.

Senator Lipparelli:

You noted there is a 30 percent obesity rate in early child care settings. Can you link this to what is happening at child care centers and that point?

Ms. Tanata Ashby:

I do not think these regulations will cure the childhood obesity epidemic; it is one tool in an arsenal. The Division of Public and Behavioral Health (DPBH) is making efforts, as are the local health districts. There are also family- and

community-level outreach programs. Many of the higher-quality child care providers are already doing these.

Senator Lipparelli:

I am uncomfortable talking about regulations being implemented. Why are guidelines insufficient?

Ms. Tanata Ashby:

There are guidelines at the State level. Unfortunately, many licensed child care facilities are only doing the minimum they are required to do. They are feeding the children poorly and sitting them in front of television screens on a regular basis; this is what we would like to avoid.

Senator Kieckhefer:

Does the term "child care facilities" in A.B. 152 include home child care facilities?

Ms. Tanata Ashby:

This would apply to all licensed child care facilities, which would include home care providers who care for five or more children in their homes.

Senator Kieckhefer:

Do most people in that category prepare their own food?

Ms. Tanata Ashby:

It is mixed; our survey asked if they prepared food or not. I could get back to you with that information. Many facilities require the parents supply their children's food and those nutritional requirements do not apply to them.

Senator Kieckhefer:

Is it reasonable to expect someone operating a home child care center to ascertain exact calories in, say, a peanut butter and jelly sandwich?

Ms. Tanata Ashby:

It is about portion size. Although I do not have them here, I will provide them to you. They are general. For instance, for this aged child, it could be so many ounces of a protein and a fruit or vegetable in the appropriate portion size. The guidelines have a lot of information, and that is why we are developing the tool

kits. One tool kit is for facilities and center-based; another is for parents, which gives them text, tools and worksheets on how to implement the guidelines.

Senator Kieckhefer:

Could you provide the Committee a copy of the guidelines currently in place?

Ms. Tanata Ashby:

I will provide the Committee the State-level guidelines.

Assemblyman Araujo:

We worked closely with Dr. Green, Chief Medical Officer, DPBH, because we had similar questions. We decided to move forward since the requirements would be better met if they were written into regulations. We determined that if something were already being done, there would be no need to do it again. We worked with all the partners on this.

Senator Lipparelli:

Is there a private industry child care group that could create methodology for a set of guidelines to be enforced? You had mentioned certain Class A child care centers already doing this; can pressure be brought to bear?

Ms. Tanata Ashby:

We do have the Nevada Association for the Education of Young Children, which is a professional membership organization that has been supportive in moving this forward. There is The Nevada Registry with its Career Ladder placement moving this through, which has also been supportive. There is the Silver State Stars Quality Rating and Improvement System, which may or may not incorporate this, depending upon what happens with this legislation. Otherwise, the answer to your question about a private industry group is negative.

Senator Spearman:

I would like to preface my statement to Senator Lipparelli that some of the more affluent centers are already complying with these guidelines, whereas the disadvantaged centers are not. When I look at this bill, I see something no one wants to talk about—the subtext of being poor. I have an article in front of me which states that 43 percent of households with incomes below the poverty line are more likely to be food insecure than the rest of the United States. The link between obesity and activity and poverty may be too costly to ignore, because obesity as it is associated with chronic disease already accounts for 70 percent

of U.S. health costs. If we only speak of guidelines, and if there is a concern that we might move toward regulation, and I am not saying I advocate that, is this enough to address chronic disease as it is associated with obesity and how it is associated with socioeconomic groups and families?

Ms. Tanata Ashby:

There is an absolute, 100 percent correlation in what we see in early childhood communities regarding those families who receive child care subsidies. These families who cannot afford child care place their children where they think they are safest; their concerns are not about quality of food or level of curriculum their children receive. This is why we support implementing minimal standards that promote high quality on multiple levels. We want nutrition and physical activity as well as training and curriculum in those facilities because those parents do not have the choice of where they can take their children. This is applicable in rural parts of the State where there are not as many options of where you can take your children. All children, no matter where they live or how much money their parents make, deserve access to high quality care.

Senator Spearman:

I read a study which stated the correlation between poverty and obesity is the same for children in Appalachia as in the urban parts of Alabama. It is not ethnicity, but chronic poverty.

Senator Kieckhefer:

Is there concern that if we put additional requirements on the operations of these facilities, we will be increasing the cost per day for these families who are already struggling to afford child care and, therefore, we will limit access?

Ms. Tanata Ashby:

That is the reason we wanted to get the provider community's thoughts first. There may be some providers here today in opposition. We have asked specifically what those costs might be in relation to the facility that provides food. It is quite possible for increased costs to be incurred when, for example, suggesting that instead of microwave pizza, a lean meat and vegetable are substituted. The Legislative Commission will do business impact statements.

Senator Kieckhefer:

They all come before the Legislative Commission, and we see all that.

Ms. Tanata Ashby:

The main impact would be the price of food. There are concerns requiring a commercial kitchen, but I do not see where that would be a requirement. Facilities are allowed to cut apples without having a commercial kitchen.

Senator Kieckhefer:

Would another option be for the center to discontinue providing food and that responsibility then fall back onto the family?

Senator Woodhouse:

Over the past few Legislative Sessions, we have been dealing with the issue of obesity with our children in the school setting. We have made some positive steps across our State regarding that. The child care facility is just another area where we can address childhood obesity in our very young children and those who have to go to a center for supervision after school. Our schools work hard to provide nutritional breakfasts, lunches, snacks and drinks. It makes no sense to have our children go to a facility after school and be provided with sugary snacks and drinks. I want to work with you on this.

Deborah M. Williams (Manager, Office of Chronic Disease Prevention and Health Promotion, Division of Community Health, Southern Nevada Health District):

As the local public health authority, serving the 2 million plus residents of Clark County, the Southern Nevada Health District (SNHD) is concerned with the impact obesity has had and continues to have on the overall health of our population. Studies show that children who become obese as early as age 2 are considerably more likely to become obese adults, which then leads to a number of chronic diseases. We want to make healthier choices easier where our children and adults live, work, learn and play.

We have had the opportunities to provide educational and technological assistance to daycare centers. We have worked with nearly 180 child care providers to date in Clark County. About half of those providers have voluntarily implemented policies to make healthier behavior easier. Through our community health grants, we are working with the CAA to develop a tool kit to improve physical activity and meet national nutrition standards in its centers. We have resources on our Website that providers can download to make it easier for them to meet these requirements, to answer questions, and we continue to do this. We, at the SNHD, will not be enforcing these regulations, but through our

Office of Chronic Disease Prevention and Health Promotion and our Environmental Health Division, we have resources available to continue to do that. I have submitted my written testimony ([Exhibit H](#)).

Senator Hardy:

This is “déjà vu all over again.” In 2003, we had the Speaker’s Bill which spoke of cutting apples—a freshman Legislator referenced cutting apples and changing diapers. As I recall, the SNHD got involved. Could you tell us what we are doing to maintain good hygiene in daycare centers?

Ms. Williams:

I do not work in the Environmental Health Division, but have worked closely with them. They do take food safety very seriously. They have regulations to keep those two activities entirely separate, and they monitor that whenever they are there to ensure that separation occurs.

Senator Spearman:

Is it within the realm of possibility for there to be partnership activities between low-income areas to mitigate or eliminate increased costs incurred with this legislation?

Ms. Tanata Ashby:

We are looking what strategies we can do to reduce some costs, particularly for facilities in low-income areas. For instance, we are doing school gardens in kindergarten through Grade 12; why not do school gardens in preschool? The federal Child and Adult Care Food Program provides funding for food for child care centers. That program is cumbersome with paperwork, and many child care facilities do not utilize it because of this. We are working with our national partners to reduce some of the paperwork burden to allow more participation in that program. We do not want them to rebuild their facilities; it may merely be a matter of putting a screen up. The SNHD may then have access through one of its programs to purchase screens for child care centers.

Michael Thompson (President, Child Care Association of Nevada):

The Child Care Association of Nevada (CCAN) is the voice of numerous child care providers across the State. The CCAN is concerned with the vagueness of the language in A.B. 152 and how significant that would be.

When we look at regulatory change, we do not understand the consequences that regulatory change might mean. The CCAN believes there may be strong possibilities for unforeseen consequences in A.B. 152.

The CCAN is not opposed to physical activity or breastfeeding privacy matters. We are concerned with the differences with guidelines to strongly shift to nationally driven regulations.

Through the child care licensing through the Department of Health and Human Services, we are regulated in relation to the kinds of meals we serve. As part of our licensing process, we must share our menus. The Department comes into our facilities unannounced during mealtimes to see what we serve as well as our portion sizes. You are circumventing a process you already have in place, looking to superimpose a new set of regulations on top of that. We believe there will be an unintended consequence to what you desire.

In looking at the students in my school over the past 15 years, a handful of students meet the criteria of obesity. We do not believe this will meet the goal of what you are intending. We are not the population where obesity is most profoundly seen.

Senator Kieckhefer:

We are working off the first reprint of the bill, as it has already been amended so please speak to the bill as it stands now.

Mr. Thompson:

There are three different categories A.B. 152 offers in relation to the delivery of food services. One is what the provider offers; then there is what the parent chooses to send with the child, and there is the waiver option. The provider may now choose not to provide food at all. We feel you may shoot yourselves in the foot by having centers that are currently providing nutritious meals not provide them at all. We offer the parent choice component at our schools, and find when parents provide that food, it is cookies, donuts and Doritos. Then, if parents choose the waiver option, they are forced to sign a document that makes them feel horrible about the food their child is receiving.

Senator Spearman:

What is the median income of those parents of children attending your schools?

Mr. Thompson:

The median income varies depending upon what type of facility.

Senator Spearman:

You indicated you had only seen three incidences of obesity; I am trying to understand the socioeconomic category of the parents who bring their children to your school?

Dr. Thompson:

We do not require that sort of information of our parents.

Senator Kieckhefer:

I am closing the hearing on A.B. 152 and opening the hearing on A.B. 81.

ASSEMBLY BILL 81 (1st Reprint): Revises provisions governing programs of treatment for the abuse of alcohol or drugs. (BDR 40-488)

Ben Graham (Administrative Office of the Courts, Supreme Court):

The Nevada Supreme Court has given some bill draft requests to Legislature from our outlying communities. Fourteen people in the Assembly worked out a consensus to give us A.B. 81.

Alina Kilpatrick (Deputy Public Defender, Public Defender, Elko County):

Specialty courts are tied to brick-and-mortar places to provide treatment for their participants. In rural areas particularly, it forces us to use treatment providers that are attached to these facilities. Assembly Bill 81 changes the definition from treatment facility to treatment provider. This allows local drug courts to use a local drug or alcohol treatment provider, such as a local alcohol or drug counselor or master's degree level social worker to provide treatment for the participants as opposed to someone specifically affiliated with a brick-and-mortar hospital. It will also reduce paperwork, reduce our dependence on State certification and will lower costs.

Assembly Bill 81 gives more discretion to local judges, the people who determine the treatment of these specialty court participants. With more discretion given to our judges and less dependence upon the State, we think we get better treatment for our participants. Assembly Bill 81 also gives permission to seek diversionary court participation out-of-state and still receive the benefit of diversion, which is the allowance for a person accused of a crime to undergo

a court-supervised program of treatment, and if successful, avoid receiving a conviction. For example, if a person is accused of driving drunk on Interstate 80 between California and Nevada, he or she could go back to California and attend a diversionary program there. The way the law is now written, it incentivizes that person to move to Nevada to be able to get diversionary court. Assembly Bill 81 plugs that loophole.

The reason I used the word “jurisdiction,” as opposed to another state is that we have many veterans requesting diversion whose treatment facility is the Veterans Health Administration (VA). The VA is not a state, but a jurisdiction of the federal government, so that was deliberate.

Barry Lovgren:

The most important thing A.B. 81 does is broaden access to quality treatment by no longer requiring the courts assign defendants only to a treatment plan offered by the Substance Abuse Prevention and Treatment Agency (SAPTA). When this was first attempted, substance abuse treatment was largely unregulated. In 1999, SAPTA substance abuse treatment became regulated under S.B. No. 210 of the 70th Session, and participants were referred to licensed, certified treatment clinicians. Assembly Bill 81 will expand the specialty court treatment resources available for those defendants. I support A.B. 81 and have submitted my written testimony ([Exhibit I](#)).

Cindy Brown:

I note in my submitted written testimony ([Exhibit J](#)) that subsection 4 of section 8 of A.B. 81 should be eliminated. Cannabis is not physically addictive. I see this as another way to criminalize an otherwise productive citizen and make money for the treatment facilities.

Senator Kieckhefer:

If you could confine your testimony to the bill at hand, as it applies to people requiring treatment in specialty courts, it would be appreciated.

Mona Lisa Samuelson:

I come to give voice to the medical marijuana community. I know this is not about marijuana. I want to speak about the corporate responsibility, and it is not to these facilities, in order to make them profitable. It is our corporate responsibility to take care of our Nevada citizens and the tourists we invite to come here. I sincerely hope you revisit this bill in regards to marijuana.

Senator Kieckhefer:

We will now close the hearing on A.B. 81 and open the hearing on A.B. 169.

ASSEMBLY BILL 169 (1st Reprint): Provides for the collection and application of graywater for a single-family residence. (BDR 40-804)

Scott Leedom (Southern Nevada Water Authority; Las Vegas Water District):

Assembly Bill 169 has been heard twice in the last three Sessions and represents a consensus for permitting of graywater systems throughout the State. Graywater is water used for washing in sinks or washing machines and then used for landscape or gardens. All water used indoors is returned to the public sewer system where it is treated and returned to Lake Mead. For every gallon we return to the Lake, we get to take another gallon out. Return flow credits extend our resources about 75 percent. We have always supported using graywater systems where there is no potential to return water to the Lake. Some of those uses are wells and people on septic systems.

In section 6, subsection 2, paragraph (a) A.B. 169 prohibits the use of graywater where there exists the potential of return to a lake or where an existing program for recycling water exists.

Clark County has proposed an amendment to the bill that makes a minor technical correction. We consider it a friendly amendment.

Senator Kieckhefer:

Do the regulations as they apply to the State Board of Health not apply to your organization?

Mr. Leedom:

Senator Kieckhefer, they do not apply to anyone connected to a public sewer system. There are about 8,000 properties eligible to install graywater systems.

Kyle Davis (Nevada Conservation League):

Nevada Conservation League supports A.B. 169. Not only is water conservation an issue, but the conservation of the amount of energy required to pump water is also an issue.

Alex Ortiz (Clark County):

We are here to propose an amendment to A.B. 169 ([Exhibit K](#)). Section 6, subsection 4, paragraph (j) identifies the effects analysis of the graywater system is conducted by the proposed operator. We want a publically treated works facility to do the analysis, and not the homeowner.

Senator Lipparelli:

Can commercial entities have graywater systems? If not, why are they not included?

Mr. Leedom:

If the property were attached to a public sewer system, that person or entity would not be eligible in Clark County to install a graywater system.

Senator Lipparelli:

If there is gain, then why are they not?

Mr. Leedom:

Since the water authority in Clark County already operates a water recycling program in the Las Vegas Valley in which everyone participates, that should be the program we utilize rather than allowing people to utilize graywater systems and not have that water be returned to the Lake.

Senator Lipparelli:

Would you then again state the benefit of the installation of these graywater systems?

Mr. Leedom:

The benefit would be those people on wells and septic systems being able to benefit by installing graywater systems at their homes and reuse that water in their gardens or landscaping.

Senator Lipparelli:

That being the case, why would it not be equally good for a commercial site not to have to pump it all the way out and pump more all the way back when they might have golf courses and significant landscaping on their properties?

Mr. Davis:

Although we have discussed this over the last two Sessions, and I agree with your point, what the Southern Nevada Water Authority wants most is to get credit for every drop it puts back in Lake Mead and expand the water budget it is able to use. What you are looking at is when a facility is using so much water and you look at the total resource cost of that water, it would make more sense to reuse that water on site. There are places that do have permits and do reuse water in Clark County, like golf courses, and I do want to see that expansion. Assembly Bill 169 at least gets us to begin the process.

In Senator Kieckhefer's district, some homeowners are doing it, but it is hard unless you do it at construction.

Senator Spearman:

In France, they are experimenting with blue, green and graywater usage, but technology has not caught up with this yet.

Daniel Fischer (Deputy General Manager, Clark County Water Reclamation District):

I am here to answer questions in regards to the friendly amendment, [Exhibit K](#), we are offering to A.B. 169. It is merely a technical adjustment. I have submitted my testimony in writing ([Exhibit L](#)). If there is any analysis to be done, we want the analysis done by the publically owned treatment works and not by the owner of the graywater system.

Senator Kieckhefer:

We know water professionals who agree with that suggestion.

Bob Sack (Director, Environmental Health Services, Washoe County Health District):

We support A.B. 169. We have had regulations for upwards of 20 years. We have had three homes permitted to do this, so it would have no impact on us.

Senator Kieckhefer:

Seeing no further testimony on A.B. 169, we will close the hearing on it and open the hearing on A.B. 268.

ASSEMBLY BILL 268 (1st Reprint): Revises provisions relating to foster care.
(BDR 38-193)

Brigid Duffy (Chief Deputy District Attorney, Juvenile Division, District Attorney, Clark County):

Our office represents the Clark County Department of Family Services. Assembly Bill 268 came out of the 2013-2014 Interim Legislative Committee on Child Welfare and Juvenile Justice. A statute modification in 2013 allowed for background checks on most individuals affiliated with foster agencies. It did not provide for individuals who regularly care for foster children within the home. Our history has been to conduct background checks on individuals within the home; however, in the last 2 years that practice has stopped. The Department of Public Safety, through a routine audit, found that statute did not authorize that type of background check. This bill will allow us to develop regulations and policies around the practice and allow us to check the backgrounds of individuals who are regularly found around the foster home who are supervising children under the age of 18.

Senator Kieckhefer:

Would these individuals be other children in the home?

Ms. Duffy:

This would apply to individuals aged 18 or older.

Senator Kieckhefer:

Could this be an adult child?

Ms. Duffy:

It could be an adult child of the foster parent that is routinely supervising the foster child.

Senator Kieckhefer:

Who else might it be?

Ms. Duffy:

It could be a babysitter who routinely supervises the foster child, someone the foster parent has hired to come in and watch the children in the home.

The bill authorizes the background check. It tells us we must inform the person holding the foster care license that an individual who routinely watches the child has a conviction, though we are not allowed to tell them what that conviction is

Senate Committee on Health and Human Services
May 6, 2015
Page 29

for, and allows them the opportunity to correct the conviction, as it does for foster parents.

Senator Kieckhefer:

Some parents might be surprised what their adult children have gotten into in their lives.

Ms. Duffy:

As a parent, I would like to be able to background check people watching my children.

Remainder of page intentionally left blank; signature page to follow.

Senate Committee on Health and Human Services
May 6, 2015
Page 30

Senator Kieckhefer:

I have, for the record, an official thumbs-up from Washoe County. Seeing no further testimony or comment, I will close the hearing on A.B. 268 and adjourn the meeting at 6:04 p.m.

RESPECTFULLY SUBMITTED:

Debra Burns,
Committee Secretary

APPROVED BY:

Senator Ben Kieckhefer, Vice Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	6		Attendance Roster
A.B. 167	C	4	Assemblywoman Michelle Fiore	Written Testimony
A.B. 167	D	1	Jill Marano / Division of Child and Family Services	Proposed Amendment
A.B. 152	E	5	Denise Tanata Ashby / Children's Advocacy Alliance	Written Testimony
A.B. 152	F	31	Denise Tanata Ashby / Children's Advocacy Alliance	NAC Revisions to Improve Physical Fitness and Nutrition in Early Childhood Educational Settings, 2013
A.B. 152	G	21	Denise Tanata Ashby / Children's Advocacy Alliance	Achieving a State of Healthy Weight, 2013 Update
A.B. 152	H	2	Deborah Williams / Southern Nevada Health District	Written Testimony
A.B. 152	I	1	Barry Lovgren	Written Testimony
A.B. 81	J	1	Cindy Brown	Written Testimony
A.B. 169	K	3	Alex Ortiz / Clark County	Proposed Amendment
A.B. 169	L	2	Daniel Fischer / Clark County Water Reclamation District	Written Testimony