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

## Seventy-Eighth Session
## March 2, 2015

The Senate Committee on Health and Human Services was called to order by Chair Joe P. Hardy at 3:40 p.m. on Monday, March 2, 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 Lipparelli
Senator Joyce Woodhouse
Senator Pat Spearman

**STAFF MEMBERS PRESENT:**

Marsheilah Lyons, Policy Analyst
Eric Robbins, Counsel
Ellen Walls, Committee Secretary

**OTHERS PRESENT:**

Lisa Ruiz-Lee, Director, Department of Family Services, Clark County
Kevin Schiller, Director, Social Services, Washoe County
Amber Howell, Administrator, Division of Child and Family Services, Department of Health and Human Services
Dan Musgrove, Southern Nevada Health District
Joseph P. Iser, M.D., DrPH, MSc, Chief Health Officer, Southern Nevada Health District
Mary Ellen Britt, RN, MPH, Manager, Office of Emergency Medical Services and Trauma System, Southern Nevada Health District
John Fildes, M.D., Trauma Medical Director, University Medical Center
Christian Young, M.D., Medical Director, Southern Nevada Health District

Erin Breen, Chair, Trauma System Advocacy Committee, Regional Trauma Advisory Board, Southern Nevada Health District
Jeanne Cosgrove Marsala, Sunrise Hospital and Medical Center
Abby Hudema, Trauma Program Manager, University Medical Center
Sean Dort, M.D., Trauma Medical Director, Dignity Health-St. Rose Dominican Hospital
David Slattery, M.D., EMS Medical Director, Las Vegas Fire and Rescue
Dennis Nolan, Director of Compliance and Business Development, Community Ambulance
D. Troy Tuke, EMS Coordinator, Clark County Fire Department
Laura Freed, Deputy Administrator of Regulatory Services, Division of Public and Behavioral Health, Department of Health and Human Services
Erin Seward, MPH, Health Program Manager, Public Health Preparedness Program and EMS Program, Division of Public and Behavioral Health, Department of Health and Human Services
Kim Dokken, Director, Trauma & Stroke Programs, Dignity Health-St. Rose Dominican Hospital
Dena Schmidt, Deputy Director, Programs, Department of Health and Human Services
Leslie Johnstone, Vice President of Operations, HealthInsight
Chuck Callaway, Las Vegas Metropolitan Police Department

**Chair Hardy:**
We will open the hearing on Senate Bill (S.B.) 107.

**SENATE BILL 107**: Provides for the award of a categorical grant to agencies which provide child welfare services for providing certain services. (BDR 38-194)

**Lisa Ruiz-Lee (Director, Department of Family Services, Clark County):**
I am here to present S.B. 107 on behalf of the interim Legislative Committee on Child Welfare and Juvenile Justice. Senate Bill 107 was written as a result of our presentation to the interim Legislative Committee on Child Welfare and Juvenile Justice on March 27, 2014. Critical issues relating to the child welfare system were presented. Two of these critical issues were related to funding. One was for funding for therapeutic or specialized foster care; the other was for funding of voluntary jurisdiction youth. There were many unknowns regarding the direction of funding for both programs. Therapeutic foster care was the first subject of the bill draft. I have submitted written testimony (Exhibit C) and will

read the historical perspectives of therapeutic foster care and of voluntary jurisdiction for youth, as outlined in page 1 and page 2 of Exhibit C. This gives the history as to why we attempted to address the block grants in the interim Legislative Committee on Child Welfare and Juvenile Justice. They were having an impact on the child welfare block grants. I will read from Exhibit C concerning categorical block grant, page 3.

Even with the inclusion of an enhancement unit for the therapeutic foster care pilot, we prefer that monies remain as a categorical block grant. Incorporating those funds in this manner ensures that the funding necessary to support the program will be evaluated every Legislative Session and will focus on outcomes as well as service demand. For these reasons, we support S.B. 107.

**Kevin Schiller (Director, Social Services, Washoe County):**
We acknowledge the inclusion of the therapeutic foster care enhancement unit in our budget with respect to the children aging out of the system. This is a significant component to our practice improvement and has a huge financial impact. Assembly Bill No. 350 of the 76th Session included a categorical grant specific to children aging out of custody. We serve approximately 45 to 50 of these children. These services have a $500,000 impact on the department of Social Services, Washoe County. We continue to work with the State to resolve budget shortfalls. I was involved in the development of the block grant. The intent was to be able to reinvest dollars based on practice improvements and incentives. The therapeutic foster care pilot is a practice improvement. We have seen dramatic impact in this program. This is a difficult population to serve. From adoption down, if I had to indicate difficult populations we serve, therapeutic foster care or specialized foster care is in the same realm with the population of children that age out of the system. They are equally important and we continue to work with the Division of Child and Family Services (DCFS) on these programs.

**Chair Hardy:**
Was $2.5 million allocated through the Interim Finance Committee (IFC)?

**Mr. Schiller:**
Yes, we began with the specialized foster care pilot and applied through the IFC for the budget requests.

**Chair Hardy:**
Were we able to make ends meet with that budget?

**Mr. Schiller:**
Yes.

**Chair Hardy:**
Will this bill put in statute what you are doing now with respect to funds?

**Mr. Schiller:**
The key component is with making a categorical grant. This process removes funding from the enhancement unit that is on the budget side. I will use the term "caseload growth" as a real-life example. Our caseload growth is high. When we developed the block grant, our caseload growth was low. At present, we are absorbing impacts with respect to finances. This is one example where we are seeing growth and trying to remedy financial impacts.

**Amber Howell (Administrator, Division of Child and Family Services, Department of Health and Human Services):**
We have areas of concern regarding S.B. 107. The State is having a "healthy disagreement" with our county partners, and we have talked about options. Until 2001, the child welfare system was bifurcated. Clark and Washoe Counties were responsible for accepting reports of abuse or neglect and conducted investigations, and when needed, removed children from harmful situations. These activities are now referred to as "front-end services." In the past, when a child was removed and placed into foster care, the State took over this process until the child was adopted or reunified. In 2001, we changed the bifurcated structure. Each child welfare agency and county took responsibility for the entire case. This created some difficulties, as the funding and structure did not change until 2011. At that time, the child welfare agencies' budgets significantly changed. The agencies adopted block grant funding. There are three areas of funding opportunity. The first is a block grant, which provides approximately $15 million for Washoe County and $45 million for Clark County per year. This funding was a great advantage to these counties, because they were able to keep all of the funds and reinvest them for population fluctuations. The second funding opportunity for these counties is the ability to submit an application for incentive funding. For Washoe County, this amount of funding comes to $1.7 million and for Clark County it is $5.2 million. The third portion of funding comes from the adoptions, which are placed outside of the block

grant. This was done intentionally as we did not want the counties to be in a position where they were capped on the amount of money they had to finalize adoptions.

When the block grant was vetted during the 2011 Legislative Session, it was done to limit the State's continued liability for funding the child welfare agencies. Additionally, the grant supplied funding and flexibility for the agencies with respect to their money. The State's contribution of county funding increased from 70 percent during 2005 to 2011. We needed to cap the funding. The proposed legislation, S.B. 107, is contrary to the block grant funding and the flexibility that the counties have with their funding. It conflicts with the Governor's recommended budget. This legislation would place the DCFS in a position where the urban child welfare agencies would have it both ways. They would isolate specific populations beyond the allocated block grant amounts. They would get to keep all of their funds and reinvest them as they deem fit. In 2011, the counties determined that they would rather have a block grant funding approach and not caseload-driven practice. The current DCFS budget requests the enhancement of specialized foster care. The Governor was supportive of the efforts of the counties and the State. There is $8.6 million in additional funding in the budget to assist with those efforts. Unless there is a decrease in the amount of the block grant, S.B. 107 would present a significant fiscal impact to the State of approximately $6 million. In Clark County, there has been a decrease in foster care and therefore, there are monetary savings for the foster care maintenance payments. It is unclear if they have savings, why they cannot invest those savings for the population presented in today's hearing.

**Chair Hardy:**
We will close the hearing on S.B. 107 and open the hearing on S.B. 189.

**SENATE BILL 189**: Makes various changes concerning the collection of information relating to the treatment of trauma. (BDR 40-95)

**Senator Joyce Woodhouse (Senatorial District No. 5):**
I have submitted a document "Collection of Information on the Treatment of Trauma" (Exhibit D), to the Committee. Provisions of S.B. 189 are detailed along with a conceptual amendment. Aspects of funding and projected statewide expenditures are also covered in this document. I will read from Exhibit D.

**Senator Lipparelli:**
Since the State Trauma Registry (STR) was established in 1987, how has it been funded?

**Senator Woodhouse:**
In 2013, I brought this bill before the Senate Committee on Health and Human Services. It did pass out of Committee but due to the fiscal note, it did not come out of the Senate Committee on Finance. Last Legislative Session, we looked at an indigent accident fund and a State appropriation, both of which went nowhere. I am back today with a proposed new way of funding the STR. Our State is a member of the National Trauma Registry System (TRACS) of the American College of Surgeons. This information should be available to our State's communities and those who work in the trauma field.

**Dan Musgrove (Southern Nevada Health District):**
The goal of the trauma system is to get the patient the correct care at the right time, with fiscal responsibility. One of the ways to accomplish this goal is through data collection. Data is used to identify injury patterns. Prevention programs and resources are allocated by analyzing data. Since 1987, the requirement for the STR has been in statute. The STR has not been adequately funded in order to perform necessary trauma data collection. Various Nevada agencies, including Emergency Medical Services (EMS), have looked for a funding source link for data collection. We are proposing a unique arrangement with respect to funding the STR, which is a $1 surcharge on property and automobile insurance policies. We need to adequately fund the STR, because we require the trauma data to keep our residents safe and healthy.

**Senator Spearman:**
Is that $1 fee assessed each month, each quarter, or per year?

**Mr. Musgrove:**
The fee would be $1 per year per policy. If a resident has a homeowner's policy and an auto policy, the fee for that resident would be $2 per year.

**Joseph P. Iser, M.D., DrPH, MSc (Chief Health Officer, Southern Nevada Health District):**
This bill is important. When I reviewed the trauma tracking system we have in Las Vegas, I have found it to be locally funded. Because of budget constraints over the last few years and because predecessors left us in a negative budget

situation, I have been unable to fill two positions in my division. These positions are necessary for the health of the residents of southern Nevada. I have worked with fire and ambulance departments in trying to look for funding sources for the STR. The only other source we could come up with was to raise fees on firefighters applying for their emergency medical technician (EMT) certification. We have an agreement to increase fees that impacts the financial stability of local fire department and ambulance services. We spoke to Senator Woodhouse as to the importance of funding the STR as well as funding Las Vegas' and the State's EMS systems. The STR data is necessary to respond to requests for applications for new trauma hospitals. We do not have the data to show where the trauma occurred. We need to follow the data from the initial call to the EMS, through the pickup and transfer of the patient, to the definitive care at our hospitals.

**Senator Lipparelli:**
Are other states tracking trauma in a "best practice" manner? As this will be a $1.8 million per year project, are there other databases already created that we can use as a basis for the STR?

**Dr. Iser:**
Dr. Christian Young will be answering those questions in this hearing.

**Mary Ellen Britt, RN, MPH (Manager, Office of Emergency Medical Services and Trauma System, Southern Nevada Health District):**
I support S.B. 189. *Nevada Revised Statute* (NRS) 450B.238 requires the State Board of Health to adopt regulations in which hospitals record and maintain information concerning the treatment of trauma based on the American College of Surgeons National Trauma Data Bank (NTDB) criteria. A key component to the success of these activities is the ability to access accurate and up-to-date EMS and trauma registry data. In order to make evidence-based decisions concerning development of new trauma centers in our State, accurate and reliable data is required but not currently available. Our State does not have a fully functioning STR. Trauma data registry systems can help define the impact of specific types of injuries occurring within vulnerable groups in our communities. The data can be used to guide prevention programs or policy decisions to reduce the risk of injury in the future. Data can be linked to EMS and motor vehicle crash data to understand causes of morbidity and mortality in Nevada. I would like to thank Senator Woodhouse for championing our efforts

to seek better funding for the Nevada EMS and Trauma System. I have submitted written testimony (Exhibit E). I will read further from Exhibit E.

**John Fildes, M.D. (Trauma Medical Director, University Medical Center):**
I am a surgeon practicing in Nevada. In the past, I have served as the National Chairman of Trauma for the American College of Surgeons. During that time, I was able to interact with the Centers for Disease Control and Prevention (CDC) in Washington D.C., and Atlanta regarding matters of national trauma policy. I have been involved with the authoring of the National Trauma Data Standard Data Dictionary, and with the National Trauma Data Bank. This databank is present in all 50 states. The National Trauma Data Bank seeks to aggregate trauma data from every state. The collected data is used to inform those interested individuals and agencies about the care of patients and is used for policy formation. In most states, this is completed by receiving data reports from the states' divisions of health. In Nevada, this is performed by individual State hospitals that report data to the national level to satisfy requirements. To answer Senator Lipparelli's previous question as to how this has been paid for—it has been paid for by hospitals and by hospital agencies. They not only pay fees in a timely manner, but they also reprioritize their own funds to achieve the data reporting goals, because it is important.

Information collected has been used for grants and funding. National data has been used to identify and combat child abuse and domestic violence. With funding from the CDC, the data is used to prevent suicides in Nevada. For patients who die, a death certificate is issued. For those who do not, there is no data system to track and to mitigate the human and financial expense of these events. The data is used to reduce impaired driving by supporting law enforcement. The provision of data has been fundamental to the passage of several pieces of legislation enacted to remove impaired drivers from our roads. Data was used to identify the surge in nonfatal and fatal injuries and lifelong disability in teen drivers, culminating in the establishment of graduated driver's licenses in Nevada. The data is now being used to identify patients—particularly those of advanced age—who fall at home, in order to determine the causes of these falls. I ask your support for S.B. 189. The requirement for trauma data collection has been mandated for over 25 years, and has been funded and sustained in our State by the goodwill of those who believe it is important.

**Senator Lipparelli:**
Are there other states that have constructed systems of trauma data registries for these data sets? Are we part of a national system or are we simply starting out anew?

**Dr. Fildes:**
Other states have implemented trauma data registries. The National Trauma Data Standard Data Dictionary is written. It has been adopted by those states that create and sell software for the purpose of trauma data collection. The State operates such a software system, but does not have the funds to operate it in a complete and efficient manner. If funding were enacted, our State would be "up to speed" relative to other states that operate trauma registries.

**Christian Young, M.D. (Medical Director, Southern Nevada Health District):**
The trauma system I oversee encompasses an area over 8,000 square miles. We are charged with providing high-level care to our residents and visitors. In 2011, a survey was conducted by the American College of Surgeons Trauma Systems Consultation Program. This review examined every aspect of care delivery in our current system. A major weakness identified was the lack of integration between the Southern Nevada Health District (SNHD) and the State. Little integration exists with non-trauma based hospitals even though some hospitals have shown willingness to continue to share trauma-related data. There is no trauma data available regarding the volumes of trauma patients treated in non-trauma centers. I have submitted written testimony (Exhibit F). While the requirement of a trauma registry is established in statute, the actual process of trauma data management is not. Without a robust trauma registry, we do not have the ability to aggregate, analyze and report injury data needed to support policy development and performance improvement activities. Exhibit F outlines what Colorado, Utah and Arizona are doing with respect to funding trauma registries. I will read from Exhibit F. I hope you will share in our collective efforts to advance our trauma system and support S.B. 189.

**Erin Breen (Chair, Trauma System Advocacy Committee, Regional Trauma Advisory Board, Southern Nevada Health District):**
I am the chair of the Trauma System Advocacy Committee under the Regional Trauma Advisory Board of Southern Nevada Health District. We brought this bill to the Legislature to be introduced this Session. A new logo and slogan with regard to trauma registry was developed by our Advocacy Committee this year—Critical Injuries: Superior Care, Trauma Systems Matter. I would like to

emphasize that trauma systems do matter. I have submitted written testimony (Exhibit G). I ask your support for S.B. 189.

**Jeanne Cosgrove Marsala (Sunrise Hospital and Medical Center):**
I support this bill. I am the Injury Prevention Coordinator for Sunrise Hospital and Medical Center. I serve as director of the Safe Kids organization in Clark County. The mission of Safe Kids is to prevent accidental deaths and injuries to children. It is a constant struggle to find funding for injury-prevention programs. There is a lack of data relating to trauma. Without accurate data from the State Trauma Registry, we do not have support for grants for our organization. We want to evaluate programs and measure outcomes. Due to the lack of data, we are unable to perform those functions. This bill would allow us to receive the information we require.

**Abby Hudema (Trauma Program Manager, University Medical Center):**
I ask your support for S.B. 189. Trauma systems are the backbone of regional and state trauma care. I have submitted written testimony (Exhibit H).

**Sean Dort, M.D. (Trauma Medical Director, Dignity Health-St. Rose Dominican Hospital):**
I am in favor of S.B. 189. Emergency and trauma services are important and affect every citizen. The data we wish to collect tells us much about injuries and deaths that occur in Nevada. The data allows for better outcomes in trauma treatment for our residents. This data gives us the ability to save lives and enables us to have less expense within the health care system. The trauma registry is vitally important and its use is becoming a national standard. I have provided a letter (Exhibit I) in support of S.B. 189.

**David Slattery, M.D. (EMS Medical Director, Las Vegas Fire and Rescue):**
I support this bill. Last year in Las Vegas, we had over 100,000 EMS calls for service. One-third of those were trauma related. I cannot tell you details about the patients because the available data is fragmented from the Southern Nevada Health District and State regarding trauma details. The EMS organizations respond to these emergencies to deliver timely and necessary care, which aspires to be the best possible. Time is the key element in such emergencies. We need data to identify areas in which many injuries are occurring and to identify vulnerable populations. From a first responder perspective, we need a linked data set from the 911 call to the EMS response in order to respond in a best-time scenario. A real life example is Arizona's linked data trauma registry

system. Because of this linked system, Arizona responders have profoundly changed the way they take care of trauma emergencies, specifically with regard to patients who have sustained severe brain injuries. The EMS responders in Nevada need this trauma registry data to provide the best care possible to individuals who have experienced trauma.

**Dennis Nolan (Director of Compliance and Business Development, Community Ambulance):**
I was involved in efforts to fund the STR during my tenure in the Nevada Legislature and here we are today, still with a system that is woefully underfunded. I am a member of the Southern Nevada Health District Trauma System Advocacy Committee. I support and urge passage of S.B. 189. The gathering of data translates to efficient patient care, cost-savings and access to federal funding. The survival of trauma, particularly in rural areas, is reliant on training and equipment provided to EMS responders. Costs are high for responder training, and at times, the cost of advanced training is the responsibility of the EMS responder. Because of this, it is difficult to recruit responders in outlying areas. This bill offers a solution to allow Nevada to conform to other states in funding the trauma registry along with other essential prevention and response efforts. I urge your support for S.B. 189. I have provided a letter of support (Exhibit J).

**D. Troy Tuke (EMS Coordinator, Clark County Fire Department):**
I have been involved in the delivery and management of EMS services in our State for many years. The data from a trauma registry is needed for funding of various county and State EMS agencies. I will read from my letter (Exhibit K). This bill offers a solution to allow Nevada to conform to the rest of the United States by funding the STR. I strongly urge your support for this bill.

**Laura Freed (Deputy Administrator of Regulatory Services, Division of Public and Behavioral Health, Department of Health and Human Services):**
As the agency charged with implementing this trauma registry as introduced in this bill, we would like to provide some context and background information. What you have heard from those who have testified today in favor of S.B. 189 is how their particular trauma data is collected and how their agency's EMS programs work. We will discuss the history of the STR as opposed to a "Trauma System."

**Erin Seward, MPH (Health Program Manager, Public Health Preparedness Program and EMS Program, Division of Public and Behavioral Health, Department of Health and Human Services):**

I will give you background information on where we currently stand on the State Trauma Registry. This STR is funded by the Nevada Public Health Preparedness program. It is funded by the CDC and the federal Office of the Assistant Secretary for Preparedness and Response (ASPR). Two full-time employees help manage the STR. Costs for maintenance and support, and those relating to the Web-based server are paid to the software vendor. The software is version 4, which is a Web-based application. Data is being transmitted into the STR two different ways. Non-trauma centers log into the Internet-based application and manually enter trauma data on a patient-by-patient basis. This information can include patient name, date of birth, gender, address, external cause of injury, EMS agency who transported the patient, referring hospital, arrival date, transport type, drug/alcohol involvement, vital signs, diagnosis codes, insurance or primary payer source, hospital outcomes and discharge information. The four trauma centers, Renown Health, Dominican Health-St. Rose, Sunrise Hospital and Medical Center and University Medical Center have purchased their own versions of the STR software in-house, but have version 5. Again, the Public Health Division has version 4. This version of software is not compatible with those hospitals, which have version 5. The trauma centers previously mentioned do not have the workforce to manually input data for all of their trauma patients. Submitting their data electronically from their in-house system to the STR is the ideal method for the trauma centers. The STR needs an upgrade to version 5 so all systems will be compatible and for reporting purposes. Because the trauma centers are not providing data to the STR, we lack trauma data. Upgrading to version 5 will solve many issues with respect to gathering trauma data. It would be helpful if we could eliminate State hosting of the software to eliminate information technology barriers and have the vendor, Digital Innovations, house and take care of the trauma registry data and customer service issues. In *Nevada Administrative Code* (NAC) 450B.768, there is a requirement for an annual report. Because we lack the data from the trauma centers, we are not able to create the report.

It is important to have the data to analyze trauma injuries. Software modules could be purchased to turn the STR into a trauma system. This system would support data from hospitals having electronic health records as well as EMS agencies within our State. This would create a systems approach to trauma

data collection. The four trauma hospitals are submitting data to the National Trauma Data Bank. The State is not able to collect those required data elements at present, as we now receive them solely from non-trauma hospitals.

**Senator Lipparelli:**
The bill calls for the development of a standardized system for the collection of information concerning the treatment of trauma, but what I am hearing is that we have this system with mixed software versions. You suggest that we need to have all stakeholders on the same software version. Does this solve all issues, or is there more we need to do?

**Ms. Freed:**
We have a trauma registry but not a trauma system. A trauma system is comprised of multi-modular software which can interact with various agencies, and perform more than what the current STR database can accomplish. The bill, as introduced, contemplates the funding of a system of trauma collection, which is much more than what statute and regulation require us to do. We are struggling with fulfilling statute and regulation requirements at this time, given the fact we have aging software. We are looking for federal funding to be able to upgrade to the current software version to be compatible with the trauma centers and allow us to provide the annual report, as required in NAC 450B.768.

**Senator Lipparelli:**
You are saying that we do not have the ability to collect required data or create necessary reports due to software version incompatibility.

**Senator Spearman:**
Do you support S.B. 189 as being good for our State, if we could work out issues?

**Ms. Freed:**
The division would be grateful if there were a dedicated revenue stream that would support the STR and software in this biennium and in the future. We do not have a position on this bill.

**Senator Lipparelli:**
Do we own the data within the STR?

**Ms. Seward:**
Yes, we own the data.

**Chair Hardy:**
In the proposed amendment, it mentions the trauma system. The STR that we operate is an information system. We need the STR to become a trauma system.

**Ms. Hudema:**
Only one of the trauma centers, Renown Health, has gone to version 5; the rest are on version 4. Since 2007, we have not had a functional trauma registry at the State level. It has not been funded. Some of the trauma centers are making plans to upgrade to version 5. We have had the capacity to do that, but we have not because of funding issues and vendor support. We continue to work out technical difficulties. The proposed amendment addresses the registry requirements and funding. From a systems standpoint, other states we have looked at have used funds from this type of legislation. They perform prevention activities in order to support administrative costs as well as rural EMS agencies and hospitals.

**Kim Dokken (Director, Trauma & Stroke Programs, Dignity Health-St. Rose Dominican Hospital):**
To clarify regarding the trauma system, the proposed amendment does define the systems portion. A data-driven system with a functioning state registry enables us to have a statewide trauma system and not isolated areas of trauma care. I have cosigned a letter of support, Exhibit I.

**Chair Hardy:**
The hearing on S.B. 189 is closed. We will open the work session on S.B. 35.

**SENATE BILL 35**: Ratifies and enacts the Interstate Compact on Mental Health. (BDR 39-330)

**Marsheilah Lyons (Policy Analyst):**
I will read from the work session document for S.B. 35 (Exhibit L). There are no proposed amendments.

SENATOR KIECKHEFER MOVED TO DO PASS S.B. 35.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

**Chair Hardy:**
We will open the work session on S.B. 48.

**SENATE BILL 48**: Revises provisions relating to health information exchanges. (BDR 40-323)

**Ms. Lyons:**
I will read from the work session document for S.B. 48 (Exhibit M). One proposed amendment was presented by the Department of Health and Human Services and is included in the work session document. An additional amendment was presented by HealthInsights titled, "S.B. 48 HealthInsight's Recommended changes to Mock-up of Amendment #1" (Exhibit N). This is to further amend the proposed amendment, which is in the work session document.

**Dena Schmidt (Deputy Director, Programs, Department of Health and Human Services):**
We agree with the proposed changes by HealthInsight, Exhibit N.

**Senator Kieckhefer:**
Referring to the first line of Exhibit N, can one define "a person" as "a health information exchange?"

**Eric Robbins (Counsel):**
In the preliminary chapter of the NRS, a person is defined both as a natural person and any nongovernmental organization, entity or corporation.

**Chair Hardy:**
Exhibit N is a conceptual amendment. We will have our Legal Division work on incorporating these requested changes.

**Senator Kieckhefer:**
With respect to definitions, what does this proposed conceptual amendment, Exhibit N, do that the proposed amendment in the work session document for this bill does not?

**Leslie Johnstone (Vice President of Operations, HealthInsight):**
There are two areas of intent we want to address in this proposed conceptual amendment, Exhibit N. There is a changed definition of the health information exchange (HIE) so the organization is the entity that is effectuating the transfer of information. In the original proposed amendment's language, the word "exchange" sounded more like a verb. We want the definition to be concerned with the "system" itself. We also want to make sure that it is clear that an HIE, in this context, does not include "closed systems" so that entities such as hospitals which have data exchange with providers of health care are not included in the definition. We want to make sure it would allow for transfer of information to any provider of care for a particular patient. We have clarified definitions and language by submitting Exhibit N.

**Senator Kieckhefer:**
Can information other than clinical information be transferred over the HIE? For example, would prescription history be considered clinical information?

**Ms. Johnstone:**
Prescription history is considered clinical information.

> SENATOR KIECKHEFER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 48.
>
> SENATOR WOODHOUSE SECONDED THE MOTION.
>
> THE MOTION CARRIED UNANIMOUSLY.

* * * * *

**Chair Hardy:**
We will open the work session on S.B. 114.

**SENATE BILL 114**: Makes changes relating to prescriptions for certain controlled substances. (BDR 40-239)

**Ms. Lyons:**
I will read from the work session document for S.B. 114 (Exhibit O). There is a proposed amendment included in the work session document.

**Senator Kieckhefer:**
The proposed amendment seems to recognize the potential for misuse with regard to access of the controlled prescription database by including civil or criminal liability for such misuse. Does statute exist that states if a person unlawfully accesses someone's personal information—meaning it was a misuse of the system—the individual whose information was accessed improperly would be notified of the violation?

**Mr. Robbins:**
I do not believe there is that requirement in this statute, but I will check further.

**Chair Hardy:**
It is reasonable to allow people to be advised if their personal information was inappropriately accessed. Is a conceptual amendment needed to address this situation?

**Senator Lipparelli:**
By allowing full access to the controlled prescription database, would there be a potential for a larger problem? Could it be problematic to allow certified law enforcement personnel conducting an investigation to have access to hundreds of names and associated prescription details versus a specific request for this information with respect to a singular individual and a single request? There is the potential of having to notify many individuals if the data was inappropriately accessed and viewed with ill intent.

**Senator Kieckhefer:**
There are details within the proposed amendment defining appropriate use and access of the prescription information, and address situations where use and access may not be appropriate. This is particularly true when speaking about civil liability.

**Senator Lipparelli:**
I would support a conceptual amendment to notify individuals whose data was accessed that viewing their data was not part of a legal process or investigation.

**Senator Kieckhefer:**
The malicious and inappropriate access or usage needs to be addressed as well. For example, this could be a person who is not directly related to the investigation who accesses an individual's prescription information. We are not speaking about a typing error.

**Chair Hardy:**
On the second page of the proposed amendment, Exhibit O, there is a requirement to provide a police department case number for the investigation to allow access to the prescription data. Malicious access to the data would not include incorrect keystrokes. A conceptual amendment concerning malicious intent and notification to the individual may be needed.

**Senator Spearman:**
If we include the issue of mal-intent, what are the penalties for illegal access to the prescription database? Are penalties implied or should they be specified? These penalties could be punitive and could discourage illegal access to the data.

**Chair Hardy:**
In Exhibit O, the last sentence of new subsection 4, paragraph (c) states:

> The head of each … law enforcement office … shall establish mandatory sanctions for unauthorized access and intentional misuse of the database, which sanctions may include loss of access for the individual, department, agency or law enforcement office, and may include civil or criminal liability.

**Senator Spearman:**
Is the language strong enough?

**Mr. Robbins:**
If you wish to make this activity a crime in this instance, it should be made a crime in statute and not in regulation.

**Chair Hardy:**
Can this be accomplished before this bill goes to the Senate Committee on Judiciary?

**Mr. Robbins:**
Yes.

**Senator Lipparelli:**
Is there currently a statute that deals with provisions regarding the release of private information that would support this legislation? The language in Exhibit O, new subsection 4, paragraph (c) uses the word "may" and not the word "shall" when discussing specific sanctions, civil or criminal, for misusing personal information.

**Mr. Robbins:**
If it is covered in existing statute, there is a need to reference the NRS chapter and section in this proposed amendment, Exhibit O, so that it is clear that the statute applies to this instance.

**Chuck Callaway (Las Vegas Metropolitan Police Department):**
I do not know of a specific statute that covers this specific case. When we worked on the proposed amendment, we drafted the language as it is in the work session document, Exhibit O, so the bill would not have to be referred to the Senate Committee on Judiciary and that agency having access would have checks and balances in place under subsection 4, paragraphs (a) through (c). These paragraphs were placed in the proposed amendment to address concerns regarding access of data with mal-intent. Ten or fewer police officers would have access to the controlled prescription database. When these officers log into the prescription database to access information, they would be required to enter a specific case number corresponding to the investigation on which they are working. The intent of this procedure is so they cannot randomly search the database for information not associated with a specific case.

In the subsection of the proposed amendment having to do with sanctions, the agency that is permitted access would set up guidelines for misuse of the system. The reason for this was not to burden the State Board of Pharmacy to come up with protocol for sanctions. That would be done by the agency discovering the misuse. At the very least, if someone was discovered misusing the system by inappropriate access, that person would lose access to the system. An internal investigation would be done to determine wrongdoing. The individual agency would decide if suspension or termination of the employee was indicated. There could be potential criminal liability if current statute states that accessing an individual's medical information with malicious intent is a

criminal offense. Civil liability could also apply in the case of unauthorized or malicious access of information. For example, if I pull up prescription information on my ex-wife to see what drugs she is taking, she would have grounds for civil action against me, because this was done without the authority of an official investigation.

**Senator Kieckhefer:**
Where in this proposed amendment language is your ex-wife notified of the unauthorized access?

**Mr. Callaway:**
If an officer enters the controlled prescription database without an official case number to "fish" for information about an individual, or creates a false case number, then these are different types of crimes. I do not believe this proposed amendment, Exhibit O, specifically says that the ex-wife would be notified of the unauthorized access. If I pull up my ex-wife's criminal history in the FBI's National Crime Information Center (NCIC) for malicious purposes and not in accordance with an investigation, usually the ex-wife will find out in some form or fashion. Someone tells someone else about the ex-wife's criminal activity, that person tells someone else, and eventually it gets back to the ex-wife, who then files a complaint with law enforcement about unlawful access of information from the NCIC. An investigation within the agency is then done. In NCIC, just as with the controlled prescription database, this activity is easily tracked. We have the ability to see if the system has been accessed and why. Potentially, a criminal investigation could take place based on the reason the person accessed the system for the information.

**Senator Kieckhefer:**
Would you be adverse to language that adds an agency notification requirement to an individual whose information has been accessed with malicious intent and without authority and which is under agency investigation?

**Mr. Callaway:**
Using conceptual wording, if it has been determined that someone's information was accessed through malicious intent and not through legitimate investigation processes, a notification would be made to the individual whose information was accessed. What agency would make the notification to the individual?

**Senator Kieckhefer:**
The investigating agency would make the notification.

**Chair Hardy:**
I am comfortable with that requirement. With regard to your ex-wife and the NCIC scenario, would the same criminal penalties apply in that case and in these malicious database-access cases?

**Mr. Callaway:**
The NCIC is a federal database, covered under federal statute. We could not charge a federal crime for access of the State database.

**Chair Hardy:**
The criminal charge is undefined in this proposed amendment, Exhibit O. Would the charge be a misdemeanor, or a certain class of felony within this proposed amendment?

**Mr. Callaway:**
The crime would be a misdemeanor offense. I would not like a specific statute created for this particular bill. It may be covered elsewhere in statute. It is likely a misdemeanor offense to access someone's data without permission. The statute could be related to data access of cell phone or other computerized information. That statute could tie into and apply to this legislation.

**Mr. Robbins:**
*Nevada Revised Statute* 453.552 states any violation of the certain provisions within the controlled substances chapter is a misdemeanor. By prohibiting these actions of unauthorized access within this bill, they would become misdemeanor offenses under this statute.

**Senator Spearman:**
Is there a definition of the word "malicious" in this bill? Is it sufficiently defined? If there was malicious intent, would that crime be covered by existing statute? Is there the need to clarify or refer to another statute that identifies what malicious actually means?

**Chair Hardy:**
If the offending person accesses the controlled prescription database information and does not have the authority or right to do so, then it is considered malicious.

**Senator Kieckhefer:**
I will suggest including the conceptual language aforementioned by Mr. Callaway for S.B. 114 in the proposed amendment, Exhibit O, and make a motion.

SENATOR KIECKHEFER MOVED TO AMEND AND DO PASS AS AMENDED AND ADDING MR. CALLAWAY'S CONCEPTUAL LANGUAGE S.B. 114.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

*****

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

**Chair Hardy:**
The work session on S.B. 114 is closed. There being no further business before the Committee, the meeting is adjourned at 5:29 p.m.

RESPECTFULLY SUBMITTED:

_____
Ellen Walls,
Committee Secretary

APPROVED BY:

_____
Senator Joe P. Hardy, Chair

DATE: _____

| EXHIBIT SUMMARY | | | | |
|---|---|---|---|---|
| **Bill** | **Exhibit** | | **Witness or Agency** | **Description** |
| | A | 1 | | Agenda |
| | B | 10 | | Attendance Roster |
| S.B. 107 | C | 3 | Lisa Ruiz-Lee | Written Testimony |
| S.B. 189 | D | 5 | Senator Joyce Woodhouse | Written Testimony |
| S.B. 189 | E | 2 | Mary Ellen Britt | Written Testimony |
| S.B. 189 | F | 3 | Christian Young | Written Testimony |
| S.B. 189 | G | 2 | Erin Breen | Written Testimony |
| S.B. 189 | H | 1 | Abby Hudema | Written Testimony |
| S.B. 189 | I | 1 | Sean Dort | Letter of Support |
| S.B. 189 | J | 1 | Dennis Nolan | Letter of Support |
| S.B. 189 | K | 1 | D. Troy Tuke | Letter of Support |
| S.B. 35 | L | 1 | Marsheilah Lyons | Work Session Document |
| S.B. 48 | M | 10 | Marsheilah Lyons | Work Session Document |
| S.B. 48 | N | 1 | Marsheilah Lyons | Proposed Amendment |
| S.B. 114 | O | 4 | Marsheilah Lyons | Work Session Document |