

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Ninth Session  
May 5, 2017**

The Committee on Judiciary was called to order by Chairman Steve Yeager at 9:03 a.m. on Friday, May 5, 2017, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/79th2017](http://www.leg.state.nv.us/App/NELIS/REL/79th2017).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Steve Yeager, Chairman  
Assemblyman James Ohrenschall, Vice Chairman  
Assemblyman Elliot T. Anderson  
Assemblywoman Lesley E. Cohen  
Assemblyman Ozzie Fumo  
Assemblyman Ira Hansen  
Assemblywoman Sandra Jauregui  
Assemblywoman Lisa Krasner  
Assemblywoman Brittney Miller  
Assemblyman Keith Pickard  
Assemblyman Tyrone Thompson  
Assemblywoman Jill Tolles  
Assemblyman Justin Watkins  
Assemblyman Jim Wheeler

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Senator James A. Settelmeyer, Senate District No. 17  
Senator Heidi S. Gansert, Senate District No. 15



**STAFF MEMBERS PRESENT:**

Diane C. Thornton, Committee Policy Analyst  
Brad Wilkinson, Committee Counsel  
Janet Jones, Committee Secretary  
Melissa Loomis, Committee Assistant

**OTHERS PRESENT:**

Joanna Jacob, representing Nevada Contractors Association  
Sean Stewart, Chief Executive Officer, Nevada Contractors Association  
Adam Segal, representing Plumbers and Pipe Fitters Local 525 Joint Trust Funds;  
Laborers International Union Local 872/AFL-CIO Joint Trust Funds; and  
Electricians Union Local 357 Joint Trust Funds  
Dan Musgrove, representing Mechanical Contractors Association of Las Vegas; and  
Sheet Metal and Air Conditioning Contractors' National Association of  
Southern Nevada  
Nathan R. Ring, representing Southern Nevada Operating Engineers Local 12 Trust  
Funds; Laborers International Local 872/AFL-CIO Joint Trust Funds; and  
Bricklayers and Allied Craftworkers Joint Trust Funds  
Danny Thompson, representing Laborers International Local 872/AFL-CIO  
Alexis Motarex, Government Affairs Coordinator, Nevada Chapter, The Associated  
General Contractors of America, Inc.  
Robert T. Eglet, representing Nevada Justice Association  
Amber L. Howell, Director, Washoe County Department of Social Services  
Lindsay Anderson, Director, Government Affairs, Washoe County School District  
Nicole Rourke, Associate Superintendent, Community and Government Relations,  
Clark County School District  
Paula Hammack, Acting Director, Clark County Department of Family Services  
Ann Dunn, Extern, Clark County District Attorney's Office; and representing  
Nevada District Attorneys Association  
Michael Ramirez, Director of Governmental Affairs, Las Vegas Police Protective  
Association Metro, Inc.; and representing Nevada Law Enforcement Coalition  
Mary Pierczynski, representing Nevada Association of School Superintendents; and  
Nevada Association of School Administrators  
Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas  
Metropolitan Police Department  
Kristy Oriol, Policy Coordinator, Nevada Coalition to End Domestic and Sexual  
Violence

**Chairman Yeager:**

[Roll was called. Committee protocol and rules were explained.] At this time, I will open the hearing on Senate Bill 338 (1st Reprint).

**Senate Bill 338 (1st Reprint): Revises provisions relating to contractors. (BDR 2-518)**

**Senator James A. Settelmeyer, Senate District No. 17:**

Senate Bill 338 (1st Reprint) deals with a subject that actually came out of the 78th Legislative Session. We had a situation come forth in the Senate Committee on Commerce and Labor where there was a disagreement among the parties. The situation was that the prime contractors were having problems getting the subcontractors to make sure their payments were made. The problem resulted because the trust funds were not getting the information to the proper parties in a timely manner. We had situations where five or six years later, the prime contractors would be told that they needed to make a payment. Both sides came forth with their different opinions. As the chairman back then, I tried to find a compromise. Both sides were unhappy with me, and in that respect I felt I found a good balance, and we then went forward. Unfortunately, a lawsuit was filed which is now in the Ninth Circuit Court of Appeals.

What this bill does is provide clarity. Both sides have come to realize that we need to provide clarity on this situation to move forward. There was a question of vagueness in some of the words that were used when submitted by one party, and that created a problem. What this bill tries to do is provide resolution to these conflicts so that both of these industries—the contractors and unions—understand the rules. Both parties have come forward in support of this concept.

**Joanna Jacob, representing Nevada Contractors Association:**

I had the opportunity to visit with each of the Committee members prior to this hearing, and I want to thank them for making the time for me. As Senator Settelmeyer has mentioned, this bill is a product of months of work done during the interim with the Nevada Contractors Association on behalf of our over-600 member firms and the labor trust funds, some of which are represented here today. This is truly a compromise measure that is being presented to you. I am proud of the time and work that has gone into this issue, both last session and this session.

**Sean Stewart, Chief Executive Officer, Nevada Contractors Association:**

In section 1, subsection 1 there is now a two-year statute of limitations, which is an increase from the current one year. This was a compromise with labor from Senate Bill 223 of the 78th Session. In section 3, subsection 7, we removed the notice provisions which were challenged in the lawsuit. The other notice challenged in the lawsuit included *Nevada Revised Statutes* (NRS) 338.700, the notice by the trust fund of any delinquent payment, and has also been removed. Section 4 gives the general contractor the right to request what we are calling a "flash audit" from the trust funds to find out if there are any issues on the job. The trust funds will then respond within 90 days letting the general contractor know if there are issues that need to be addressed. The hope here is if the flash audit comes back with a concern, the general contractor can help the trust fund collect the money.

Section 5, subsection 6, states if that notice is clear and there is no indebtedness, no interest will be accrued on the period covered. Interest can accrue after a notice of claim if the general contractor does not help with prompt payment.

**Adam Segal, representing Plumbers and Pipe Fitters Local 525 Joint Trust Funds; Laborers International Union Local 872/AFL-CIO Joint Trust Funds; and Electricians Union Local 357 Joint Trust Funds:**

We believe this bill strikes the right balance between protecting workers and allowing the contractors to close out their projects with some finality within a reasonable time. Therefore, my clients support this bill.

**Assemblyman Pickard:**

I am personally aware of the abuse that has been undertaken; fortunately, not by the trust funds that are represented here today. At least one trust fund was using this to essentially shake down contractors many years later. That we are bringing clarity to this is hugely important. Now that you have brought everyone together, is this going to provide an opportunity moving forward for both sides to see everything that is going on? Does this provide clarity in the process so that we do not run into the problems we have seen?

**Senator Settelmeyer:**

I believe it will. More than anything this bill seeks to do one thing: to ensure that the union trust fund is paid. However, to do that we need to be able to notify the contractor within a reasonable time period so he can get the money from the subcontractor before, no offense, the subcontractor may go out of business. The goal is to make sure the union trust fund is paid from the right person.

**Chairman Yeager:**

Are there any further questions from the Committee? I am not seeing any further questions at this time. Thank you again for your presentation. I will now open the hearing for testimony in support.

**Dan Musgrove, representing Mechanical Contractors Association of Las Vegas; and Sheet Metal and Air Conditioning Contractors' National Association of Southern Nevada:**

We are subcontractors that are signatory. We worked on this compromise and, in fact, our representation was at the table earlier today, so we are in complete support.

**Nathan R. Ring, representing Southern Nevada Operating Engineers Local 12 Trust Funds; Laborers International Local 872/AFL-CIO Joint Trust Funds; and Bricklayers and Allied Craftworkers Joint Trust Funds:**

We stand in support of this bill. We believe it is a great compromise and we thank Senator Settelmeyer for bringing this bill forward. There is one thing I want to make clear: it is not only about union trust funds; this statute can also be used by workers who are not paid for their personal wages. It is a great worker-protection statute and we appreciate the ethics in it.

**Danny Thompson, representing Laborers International Local 872/AFL-CIO:**

We, too, are in support of the bill. This is a compromise bill that I think fixes a lot of things for everyone, so we urge your support.

**Alexis Motarex, Government Affairs Coordinator, Nevada Chapter, The Associated General Contractors of America, Inc.:**

For the reasons already stated, we support the bill as well.

**Chairman Yeager:**

Is there any additional testimony in support of S.B. 338? [There was none.] Is there any opposition testimony? [There was none.] Is there anyone who would like to testify in the neutral position? [There was no one.]

**Senator Settlemeyer:**

I appreciate the work that was done by all of the interested parties in trying to get this compromise where it is today.

**Chairman Yeager:**

We will close the hearing on S.B. 338 (R1) and open the hearing on Senate Bill 287 (2nd Reprint).

**Senate Bill 287 (2nd Reprint): Revises provisions relating to the protection of children. (BDR 38-609)**

**Senator Heidi S. Gansert, Senate District No. 15:**

First, I would like to talk about the phenomenon known as "passing the trash." I have pulled some headlines from recent articles in northern and southern Nevada [slides 3-5, ([Exhibit C](#))]. As you can see, there are plenty of incidents where there is poor behavior between school personnel and students.

- "Police: Surveillance video shows aide physically abusing special-needs student," *Las Vegas Sun*, 2012;
- "CCSD [Clark County School District] looks to settle lawsuit alleging physical harm of mute student," *Las Vegas Review-Journal*, 2014;
- "Washoe County School District agrees to settle abuse lawsuit for \$1.35 million," *Reno Gazette-Journal*, 2016;
- "Deceased suspect in lewdness case was a WCSD [Washoe County School District] teacher," *Reno Gazette-Journal*, 2016;
- "Pahrump school officials charged in special ed abuse case," *Las Vegas Sun*, 2010;
- "Parents sue over abuse by teacher's aide," *Las Vegas Review-Journal*, 2015;
- "Lawsuit alleges boy with Down syndrome was abused at school," *Reno Gazette-Journal*, 2016;

- "5 charged in 3 months: School District battles history of personnel violating students," *Las Vegas Sun*, 2015;
- "Suit alleges Washoe student was forced to stay in bathroom for entire school day," *Reno Gazette-Journal*, 2016;
- "Abusive teachers move from school-to-school," *USA Today Section; Reno Gazette-Journal*, 2016.

While there are plenty of headlines, I want to highlight one that is recent in Clark County. A kindergarten teacher, Melvyn Sprowson, was found guilty about a month and a half ago of kidnapping and child pornography. He held a 16-year-old high school student for two months in his apartment. Sprowson had faced allegations of unlawful sexual conduct involving children years earlier. He had been accused of making sexual advances while teaching at Magnolia Avenue Elementary School in Los Angeles between 2004 and 2007. He had a lawsuit filed against him in 2009, accusing him of committing unlawful sexual acts. The southern California school district where he worked made an undisclosed settlement with the family in 2010, with Sprowson resigning in January 2012. In August of 2012, Sprowson moved to Las Vegas and was hired to teach kindergarten at Cyril Wengert Elementary School in Clark County. This is the phenomenon of "passing the trash," where an individual who is known to be abusive or having an illicit sexual relationship is allowed to resign from one school district and then move to another school district.

Under our current system, what has happened is when there are accusations of abuse, neglect, or sexual relationships, the reports may be dismissed or evaluation delayed. Records may not be kept and personnel may resign. If there is a substantiated report by a school district and the individual is allowed to resign, there is no searchable permanent record on the individual [slide 6, [Exhibit C](#)].

Mandatory reporters in school districts are licensed and endorsed school personnel. They are also limited to reporting on "persons responsible for the child's welfare" [slide 7].

The next few slides will review the definition of abuse or neglect of a child. *Nevada Revised Statutes* (NRS) 432B.020 defines it as physical or mental injury, sexual abuse, or negligent treatment, caused or allowed by the person responsible for the welfare of the child [slide 8]. In NRS 432B.130, persons responsible for the welfare of a child are quite limited. It ends up being parents, guardians, or stepparents, individuals who continually care for a child, or are regularly in their household [slide 9].

The objectives of this bill [slide 10] are to require better screening of school personnel and certain volunteers; to expand mandatory reporters to include all school personnel and volunteers; and to create a statute for abuse and neglect related to K-12 schools that includes sexual conduct, luring, and volunteers' use of corporal punishment. It also looks for an external investigation to determine if a report is substantiated. We want to make sure that those reports are entered into a searchable database.

Section 27 of the bill [slide 11, ([Exhibit C](#))] is where we have the requirements around background checks. Currently, individuals who are hired by school districts are required to forward fingerprints, and those are checked in the Central Repository for Nevada Records of Criminal History. There is another statewide database that is not searched called the Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child. The Division of Child and Family Services, Department of Health and Human Services, operates that database. Governments can search that database for a Child Abuse and Neglect (CANS) check, and so can some employers under certain circumstances, with written approval of the person applying for a job. This database contains substantiated reports of abuse and neglect. This information can be shared both interstate and intrastate. So in the case of Melvyn Sprowson, the Clark County School District could potentially have identified if he had these issues if a database like this had been searched.

In section 37 we expanded the definition for "abuse or neglect" to make sure that it captures individuals who are employees or volunteers for a public or private school. In the original definition of "persons responsible for a child's welfare," it excluded all school district personnel and volunteers [slide 12, ([Exhibit C](#))].

Section 44 requires all employees and volunteers to be mandatory reporters of suspected abuse or neglect. Instead of limiting that responsibility to licensed personnel, it will apply to anyone who is at the school [slide 13]. They have to report suspected abuse or neglect, sexual conduct between certain school employees or volunteers and pupil, luring, and corporal punishment. Those pieces were picked up from different parts of the statute. We tried to bring together all the different types of incidents that could happen [slide 14]. Section 44 requires an agency investigating a report to determine whether the report is substantiated. If it is substantiated, the agency is required to report it to the Department of Education, the governing body of the school district, and law enforcement. After the conclusion of any administrative appeal, and if the appeal fails, it goes into that secondary CANS system that is maintained by the Department of Health and Human Services, Division of Child and Family Services [slide 15].

Section 51 contains confidentiality requirements [slide 16]. Section 56 talks about the appeal process [slide 17]. Section 57 addresses immunity. If you report an individual suspected of abuse, neglect, or an illicit sexual relationship, you are immune from civil and criminal liability [slide 18].

Again, this terrible phenomenon of "passing the trash" has been happening over the years and seems to be becoming more common. This bill looks to make sure that we screen personnel better, and we create a record if there is a substantiated report so that we do not inherit individuals who can harm our children and we do not send them to other school districts.

**Robert T. Eglet, representing Nevada Justice Association:**

Twenty years ago, seven-year-old Sherrice Iverson was found raped and murdered at the Primadonna Resort and Casino, left to die at the bottom of a bathroom stall. While the rape and murder of a young child was reprehensible in and of itself, equally deplorable was the fact that the perpetrator's friend, who witnessed the act, did nothing to stop it. Moreover, he had no duty under the law to report what he saw and could not be prosecuted for failing to do so. In response to Sherrice Iverson's murder, this Legislature passed Assembly Bill 267 of the 70th Session. That bill, now codified as NRS 202.882, requires a person to notify law enforcement within 24 hours that they knew or had reasonable cause to believe that another individual committed a violent or sexual offense against a child 12 years of age or younger. Failure to report the act would be a misdemeanor under Nevada law, but a person could not be prosecuted unless a conviction had been entered against the person responsible for the crime reported. Persons making such reports are immune from civil liability if it was made in good faith.

This Legislature has a similar opportunity with S.B. 287 (R2) to ensure that cases like Sherrice Iverson's do not happen in the confines of our schools. Any cases of alleged sexual abuse committed against students are immediately reported to the appropriate authorities. In passing the duty to report provisions of S.B. 287 (R2), I believe our children will be protected to the fullest extent of the law.

Senator Gansert talked about the problem and you have heard me give testimony twice this session on bills sponsored by members of this Committee that address this same issue. This issue has become epidemic. I am a product of the public education system of southern Nevada. I grew up there, went to high school there, and graduated from the University of Nevada, Las Vegas. When I was there, we did not have these issues, but they seem to be escalating. We have had 11 cases reported in Clark County this year. I had testified in the past that it was becoming every other week, but now it is more than every other week. The important thing to remember is that the overwhelming majority of these cases go unreported.

I am going to answer this question because I got this question last time in a text message. Why would a member of the Nevada Justice Association be supporting a bill that has an immunity clause in it? There are times when there are certain issues that outweigh the ability to bring a lawsuit against somebody. The protection and safety of our children is one of those issues. In the current litigation that I have against the school district and the teacher's union, I have continually asked them, in addressing their concerns, to show me one case in southern Nevada where a teacher has been falsely accused of doing this and had their reputation ruined by a false accusation by parents or children. I know of no case. This is an important bill, and I thank Senator Gansert for bringing this bill to the Legislature.



**Senator Gansert:**

I failed to mention that I have a proposed amendment ([Exhibit D](#)), of which each of you has a copy. It amends portions of sections 37, 44, and 49. In section 37, we want to make sure this addresses employees and volunteers at a school for abuse and neglect. Section 44, subsection 4, states that if there is a report that rises to the level of a category A felony, it would be sent up to the Las Vegas Metropolitan Police Department. For these high-level cases, it goes out to other law enforcement. We also expanded where incidents could occur, not just on school property, but also on a school bus or at a school activity; if something happens it should be reported. Under the current statute, abuse and neglect would be that perpetrated by parents or a person responsible for the welfare of a child. Under this bill they are not the accused. If the child had to have any diagnosis or medical tests, a parent would need to approve of that and potentially pay for those tests. This is what was amended in section 49.

**Chairman Yeager:**

The proposed amendment is on the Nevada Electronic Legislative Information System (NELIS) and there is also a proposed amendment from Clark County ([Exhibit E](#)). It appears that your amendment addresses the concerns that were raised in the Clark County amendment, but I wanted to get that on the record.

**Senator Gansert:**

I spoke with the Clark County District Attorney's Office and the Clark County Department of Family Services yesterday. My mock-up should reflect what they requested.

**Assemblywoman Krasner:**

Are there any provisions for false reports in the bill?

**Robert Eglet:**

The immunity clause states clearly that the accusation has to be made in good faith. If it is not made in good faith, the individual is subject to litigation liability.

**Assemblywoman Krasner:**

If there was a claim made against a person that was false and not in good faith, how is that addressed?

**Robert Eglet:**

They do not have civil or criminal immunity. I have not seen a case where that has occurred in Clark County in all of the cases I have brought against the school district. Maybe Senator Gansert can express it more clearly.

**Assemblywoman Krasner:**

I appreciate that, and I am glad we are protecting children. However, just because we have never seen it, does not mean it could not happen. I was wondering if there was something that would address false claims without good faith.

**Senator Gansert:**

Because they do not have immunity, I believe someone could take action against them if it is not made in good faith. It is more frequent that there are reports of individuals saying there is an issue with a teacher or a coach and nothing happens. Those accusations get pushed aside so we want to ensure there is a response that can be assessed and a determination as to whether there should be an investigation. What we do not see is the flip side of that.

**Assemblyman Elliot T. Anderson:**

They could sue for defamation if the immunity provision does not apply.

**Robert Eglet:**

They are subject to civil liability for defamation and libel. I am not a criminal lawyer, but I believe there is criminal liability for making false accusations that someone committed a crime.

**Chairman Yeager:**

There would be a criminal charge if the accusation was made to law enforcement. If that happened, they could be charged. Whether they would actually be charged is another question. I think Assemblyman Anderson is correct in respect to the defamation claim.

**Assemblyman Pickard:**

The idea of not "passing the trash" is a long time coming. It astonishes me that we have not done more. We touched on, but almost glossed over, the issue of a substantiated report. I deal with this in the domestic realm where we have Child Protective Services actions and they substantiate a report. That is, ultimately, what we are talking about here. It is not a conviction, and I am usually the one asking, Why are we making determinations until we have a conviction? The substantiation goes beyond just a simple investigation. Could you touch on that so the Committee understands what we are looking at here?

**Senator Gansert:**

I would like to have Amber Howell from the Washoe County Department of Social Services address that.

**Amber L. Howell, Director, Washoe County Department of Social Services:**

It is not a conviction; it is part of the civil process. Therefore, when the call comes in we make a determination of whether we are going to investigate the claims. It has to rise to a certain level. We determine whether there is truth to the allegation. We support or refute the claim by doing an investigation. The track that the school district uses for child welfare is something that we call the "corporal punishment" track. When the corporal punishment tracks are investigated and substantiated, it does not feed into the Central Registry. That is the missing link. With most substantiations of abuse and neglect by a person responsible for the welfare of the child, if you are found to have abused or neglected a child, you are in the central registry for 28 years, or until the victim turns 28 years old. This concept connects those dots so that you do have school employees who will be placed in the Central Registry that anyone can find if they request the screening.

**Assemblywoman Tolles:**

This bill extends beyond sexual abuse to all forms of abuse and neglect. Many of the cases you listed at the beginning had to do with sexual abuse, but could you elaborate a bit more on some of the impacts that we have seen in regard to abuse and neglect that are not sexual in nature?

**Senator Gansert:**

We went through the statutes and added corporal punishment and luring to the abuse and neglect so we could have a comprehensive way to address incidents that happen in schools.

**Assemblywoman Cohen:**

You and I have discussed that you are not looking to include a one-time-per-semester volunteer; you want to have some flexibility for the school districts to determine how often an individual has to volunteer before they are captured by this. Could you give more information regarding your intent?

**Senator Gansert:**

The language is open so that there is discretion. If it were a volunteer who has an ongoing relationship with students, for instance a coach, that person would need to go through the background check screening. If it is an individual who is coming in to read to their child's class, they would not require it. Again, there is discretion and there may be some school districts who want to run more background checks versus others. However, we rely on them to determine at what level they require those checks with volunteers.

**Assemblywoman Cohen:**

Most education bills that I recall were specific when schools are listed, such as public schools, private schools, charter schools, and schools for gifted students. I found in this bill there were places where it said public and private schools. Was there a reason to list them in this way or was it an oversight?

**Senator Gansert:**

It was the drafter's choice and I am not sure why it varies. It does extend to the public schools and private schools to make sure they perform background checks, and that there is a process if there are accusations of abuse and neglect.

**Assemblywoman Cohen:**

However, we are not intentionally leaving out the charter schools and university schools for the gifted?

**Senator Gansert:**

No, it is all-inclusive.

**Assemblywoman Miller:**

My question is about neglect. Sometimes we hear about extreme cases such as a student being locked in a closet or a bathroom. Sometimes on the news there are rare cases of a child being left on a school bus all day or night. Can you define what neglect by school staff would be?

**Senator Gansert:**

I would like Ms. Howell to answer those questions as she has vast experience in this area.

**Amber Howell:**

Neglect in a school district would be something such as keeping children from food, water, and those types of things. We have a vast policy around what constitutes abuse and neglect. We also have a corporal punishment policy that lists what neglect would look like. Neglect is usually in the form of not providing for basic needs of children, so it could encompass anything in that realm that is not physical in nature.

It is not just when the call comes in; we are doing a thorough investigation, and we are doing many collateral interviews with people and the child. It is a robust investigation to figure out what is happening. I am happy to provide the policy to you.

**Assemblywoman Miller:**

We are looking through some of the different legal definitions of neglect. When you say keeping a child from food or water or basic needs, I know from being in the schools that teachers pay out of their pockets for kids to eat lunch, and free lunches are being given away to kids who have forgotten their lunch or do not have money for lunch. They are making sure that kids are eating and drinking. Can you tell me, are there cases in Nevada where students have been kept from food or water?

**Amber Howell:**

We have not seen that. We had 16 investigations on corporal punishment in the last year, and they were all physical in nature. We see the situation you are referring to all the time. Sometimes it will be the teacher who will call and say he is not showing up with food or water or he appears to be dirty. The focus then goes back to the parent. We rely heavily on the school district and the teachers to help us connect those dots.

**Assemblywoman Miller:**

There have been 16 cases of corporal punishment in the state?

**Amber Howell:**

In Washoe County.

**Senator Gansert:**

One of the headlines I mentioned was a suit alleging that a Washoe County student was forced to stay in a bathroom for the entire school day—that was a *Reno Gazette-Journal* article in 2016. That student was placed in a bathroom all day, and the teacher claimed that she was trying to toilet train that individual. This teacher was allowed to resign and move on to another school district, which is not uncommon.

I also wanted to add that because the reporting is currently not done on school districts except for corporal punishment, Child Welfare Services is not receiving the reports if there is neglect. The *USA Today* article discussed how this is happening across the nation. It is important to point out that we have many great teachers and volunteers, and it is a fraction of 1 percent of individuals who are involved in these types of actions. However, we do not want to allow even one instance to occur. We want to make sure that there is reporting and consequences if it does occur.

**Assemblyman Elliot T. Anderson:**

You might remember, in 2014 or 2015, the *Reno Gazette-Journal* ran a story on the Washoe County special education rooms or behavioral health rooms where there would be children in a room by themselves. I do not know what all the facts and circumstances were, but that got me thinking. Let us say some child was a problem or threat to others and was put in a room; how would that situation apply to the law you are creating here? Would there be an exception if a child was a threat to someone? Would that be considered neglect?

**Senator Gansert:**

I should let Washoe County School District and Clark County School District answer that, but I would imagine they have strict policies around that. I know they have policies around restraint, but probably around that as well.

**Lindsay Anderson, Director, Government Affairs, Washoe County School District:**

In the case of special education, there are many federal and state laws. In fact, Senator Gansert has a different bill about special education. There is a lot of policy and law around the appropriate use of restraint and progressive discipline for employees who do not follow that policy.

**Assemblyman Elliot T. Anderson:**

Do you remember that series that ran in the newspaper?

**Lindsay Anderson:**

Yes, I do.

**Assemblyman Elliot T. Anderson:**

I do not know if the procedures were appropriately followed. I want to ensure that there is that body of law out there—if there are children who have behavioral problems, causing issues, and restraints are allowed—I want to make sure those teachers are following that body of law appropriately. I am glad to know that there is an applicable body of law. I just want to make sure that there are no unintended consequences that would subject those teachers to any liability for following what has been established.

**Assemblyman Pickard:**

As I was listening to the testimony and putting pieces together, it occurred to me that there might be a gap that is not being addressed, although I do not know that we need to address it in this legislation. As we talk about the "passing the trash" phenomenon, there are multiple components, and one of them is that the school district does not want to report it. They do not want to get involved and just want to get this person out, in large part, because they are afraid of a lawsuit. I recognize Mr. Eglet's hesitation in providing immunity to those who could be sued. Is there an opportunity here to provide some protection for the school districts? Maybe there is and I have missed it. Are we able to protect the school district from lawsuits and negative effects of reporting these things? What protections can we put into place so the school district does not let the person retire or resign and disappear from view?

**Robert Eglet:**

If you provide immunity to the school district, in my view, that will make things worse. Then they are immune from whether they do or do not take action. The whole problem has been that the school district has not taken sufficient action. Last time I was here, I discussed the fact that they have a clause with the teacher's union in the collective bargaining agreement that allows them to wipe the teachers' or employee's file clean and get rid of any evidence that there were any allegations, substantiated or not, seal the record, transfer the teacher to another school within the county, and not tell the principal, the vice principal, or any of the other teachers what has been going on. They stop any investigation because, in the collective bargaining agreement, the clause requires the allegations to be proven beyond a reasonable doubt, which is ludicrous. That is part of the problem. I do not think providing the school district with immunity in this case is going to help the situation and it would probably make it worse.

**Assemblyman Pickard:**

Maybe the flip side of that coin is the appropriate approach, which is that we increase or impose a penalty if they do not report it. To me, this seems to be a piece of the puzzle that is missing. We are not making sure that the district is avoiding that quick response—Let us quickly get rid of it so it is not our problem. Maybe it is not offering protection, but rather incentivizing them to do the reports. That seems to be a piece that is missing from this equation.

**Senator Gansert:**

Mandatory reporters are required to report. If they do not report, there is a potential misdemeanor or gross misdemeanor, so there is a bit of a hammer if you are a mandatory reporter. There are all types of mandatory reporters, whether you are an emergency physician, if you work in child welfare, if you are in schools, and so forth. There is statute around what a mandatory reporter is.

**Assemblyman Pickard:**

I recognize that, but as I understand the mandatory reporter rule, it applies if you witness or if you have reason to believe that something has occurred. We are not talking about some attenuated understanding, but if you have some direct knowledge, you must report. If you are an administrator three times removed, that reporting requirement starts to break down. I am wondering if we should put some incentives at the district administrative level to ensure that those reports are made to the Central Repository.

**Senator Gansert:**

I think because we have expanded mandatory reporters on an individual basis to include all school district personnel and volunteers that we have a statute in place. I am not sure about creating penalties for administrators within school districts, but on an individual basis, they are compelled to report if they are aware of something. They are the ones calling the hotline and making that report.

**Nicole Rourke, Associate Superintendent, Community and Government Relations,  
Clark County School District:**

I want to thank Senator Gansert for requesting our Child Abuse or Neglect policy and for posting it online ([Exhibit F](#)). I would like to point you to regulation 5152. Section II points out that there are four levels of reporting by Clark County School District employees—all employees. We began the creation of this policy just under 3 years ago and it has been in place for 2 1/2 years: all Clark County School District employees who know, or have reasonable cause to believe, that a child may have been abused or neglected are required to contact Child Protective Services, the school administrator, school counselor, school nurse, and school district police immediately.

There are four levels of reporting and we are very stringent about this; we take it very seriously and are transparent about it. The idea is that the report is not going to just one person and it is not being swept under the rug. Our school police department is a very important element of our investigation because, from that point on, discipline starts—not just the investigation—so there is a two-pronged approach. We want to ensure the safety of children by taking that person out of the school while the investigation is going on if the allegation can be substantiated.

**Chairman Yeager:**

I noticed throughout the bill, and I will grant that this is language already in existing statute, we reference the term "offense involving moral turpitude" on nine occasions. We have had an effort this session to remove that term or find a better way of saying it as it is an antiquated term. Would you have any objection to working on that language, granted it is not language you provided?

**Senator Gansert:**

Yes, if that is a term that is evolving and becoming better defined, I am open to that amendment.

**Chairman Yeager:**

It sounds like what we are trying to do is expanding the universe of those who need to report to Child Protective Services, but we are also expanding the definition of neglect to include people who are not traditionally included in that definition. The definition now is, if you have a legal responsibility for the child and you fail to do something, it is neglect. We are expanding that definition to say that whether you have a legal duty, you can have neglect reported. I want to be careful there because if someone fails to report, they could be found guilty of a misdemeanor or gross misdemeanor. It is important to nail down what their obligation is and the best way to do this. Maybe this is where the discomfort comes from.

If you look at section 37, that section defines abuse or neglect of a child, but it references back to another statute, NRS 432B.020. Then, if you look at that statute, it references yet another statute, NRS 432B.140, and those statutes define neglect in such a way that it is limited to someone with a legal responsibility to the child. Rather than have section 37 refer to two other statutes that are somewhat contradictory, it might make sense to import what it is that we are trying to get at explicitly into the definition in section 37 so there is no conflict between those sections.

The reason I ask the question is because NRS 432B is complicated. I would ask you to put some thought into—if we were to approach it in that way—whether there would be some unintended consequences somewhere else in Chapter 432B because I do not want to create that. I know that was a long-winded statement, but I want to make sure we are being very careful in telling our new mandatory reporters exactly what it is they need to report.

**Senator Gansert:**

I am open to looking into that language and cleaning it up.

**Assemblyman Elliot T. Anderson:**

I am looking at section 51 and trying to understand what legislators have to do with this. Could you help me understand what that language is doing?

**Senator Gansert:**

Which language specifically?



**Assemblyman Elliot T. Anderson:**

I am looking at section 51, subsection 11; it talks about legislators. Can you help me understand what is happening there?

**Senator Gansert:**

I am not sure, so I will have to ask legal about that language. I know there is some reporting but that would be aggregate reporting. It would not be individual cases.

**Brad Wilkinson, Committee Counsel:**

That language is patterned specifically after the existing language in NRS 432B.290. I think the reason for that language is that the Legislature sometimes has a role in investigating issues; therefore, there might be some interest in the Legislature of having that information. I believe that is why it is in the existing law.

**Amber Howell:**

There are times that the child welfare agencies are asked by the Legislature, through their audit division, to audit some of our cases, whether it is child fatality or certain investigations, so that language references the authority for the auditor to do that.

**Chairman Yeager:**

Are there any further questions from the Committee? Seeing none, I want to thank you for your presentation and answering all the questions from Committee members. At this time, I will open the hearing for additional testimony in support of S.B. 287 (R2).

**Paula Hammack, Acting Director, Clark County Department of Family Services:**

We want to put our support on the record for this bill and thank the sponsor for accepting our amendments.

**Amber Howell:**

I want to thank the sponsor for working with us. We have had several amendments and lots of rich discussion back and forth in making sure we get this bill correct. We believe we are able to do this without any fiscal impact and capacity issues ([Exhibit G](#)). We also have access to the CANS system, which is free and therefore removes any fiscal note or additional responsibilities. It is good that we have the ability to place substantiated abusers within the Central Repository to help the school district and communities feel safer about who is working with our children. We are in full support and excited to get started implementing this.

**Lindsay Anderson:**

We are here in support of this bill and we do appreciate Senator Gansert working with us. I appreciate what she said about the hardworking staff that we encounter every day. What we say is often school is the safest place for some of our students. We want to ensure that it is, even safer while acknowledging that it is often the safest place for our students. We do not want to have bad apples; it is our obligation to have the safest schools and the safest

people in our schools. We are acting in good faith and trying to get alleged violators away from our students as soon as possible. Often, when an allegation comes in, an employee simply resigns through no pressure—they just want out. That is not the school district acting in bad faith; it is just the way that it works.

We do appreciate the flexibility with volunteers, because we do have 16,000 volunteers in our schools every single year. We want to make sure the background checks are not a financial barrier for people who want to come in for one day or read in their student's classrooms. However, we take it very seriously, particularly with adults that are going to be unsupervised with students. We appreciate Senator Gansert for including language that would allow us to run something that we call "wants and warrants", which is something we used to do that we have not had access to recently. It often gives us more up-to-date information than a fingerprint background check. We are here in support of S.B. 287 (R2).

**Nicole Rourke:**

The district is here to support this bill. Student safety is the top priority of the district. We want to ensure that all teachers, administrators, and staff share our concern for the security of children in our care. It is our hope that the legislation proposed in S.B. 287 (R2) results in greater protections for our students. As I mentioned, we have done work in this area and will continue to do more. We are looking at an additional policy with teachers' involvement with social media and further safety for our children. We look forward to reporting that and sending you an updated version of that policy as well.

**Ann Dunn, Extern, Clark County District Attorney's Office; and representing Nevada District Attorneys Association:**

We would like to thank Senator Gansert and the other sponsors for bringing this bill and we are happy to add our support.

**Michael Ramirez, Director of Governmental Affairs, Las Vegas Police Protective Association Metro, Inc.; and representing Nevada Law Enforcement Coalition:**

We support the bill with the amendments. Ronald Dreher, Government Affairs Director, Peace Officers Research Association of Nevada, submitted testimony and he wanted me to ensure that you received it ([Exhibit H](#)).

**Mary Pierczynski, representing Nevada Association of School Superintendents; and Nevada Association of School Administrators:**

We are in support of the bill. I think it will help school districts when they are hiring to get better background information. The flexibility with volunteers in this bill is very important. I want to thank Senator Gansert for her comment that these offenses pertain to a small group of people and that the greater majority who come to our schools and volunteer or teach are good people who want to support students, but we cannot have even one bad apple. This will help us eliminate that.

**Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas  
Metropolitan Police Department:**

We are in support of S.B. 287 (R2).

**Kristy Oriol, Policy Coordinator, Nevada Coalition to End Domestic and Sexual  
Violence:**

We support S.B. 287 (R2).

**Chairman Yeager:**

Is there anyone else in support of S.B. 287 (R2)? Seeing no additional testimony in support, I will open the hearing up in opposition. Seeing no opposition, I will open the hearing to neutral testimony. Seeing no one, I will invite Senator Gansert to come back to the table for closing statements.

**Senator Gansert:**

Thank you for hearing this bill today. I also want to take a moment to thank the child welfare agencies, school districts, law enforcement, the district attorney's offices, and everyone who worked on this bill. I urge your support.

[All items submitted but not discussed will become part of the record: ([Exhibit I](#)).]

**Chairman Yeager:**

I will close the hearing on S.B. 287 (R2). Now would be the time for public comment. Seeing no one, I will close public comment.

This meeting is adjourned [at 10:08 a.m.].

RESPECTFULLY SUBMITTED:

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Janet Jones  
Committee Secretary

APPROVED BY:

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Assemblyman Steve Yeager, Chairman

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

## EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a copy of a PowerPoint presentation titled "[Senate Bill 287](#): Revises provisions relating to the protection of children," dated May 5, 2017, presented by Senator Heidi S. Gansert, Senate District No. 15.

[Exhibit D](#) is a proposed amendment to [Senate Bill 287 \(2nd Reprint\)](#), presented by Senator Heidi S. Gansert, Senate District No. 15.

[Exhibit E](#) is a proposed amendment to [Senate Bill 287 \(2nd Reprint\)](#), dated May 4, 2017, submitted by Alex Ortiz, Assistant Director, Clark County Department of Administrative Services; and Brigid Duffy, Chief Deputy District Attorney, Juvenile Division, Clark County District Attorney's Office.

[Exhibit F](#) is a document titled "Clark County School District Regulation, Outlining R-5152 Policy Regarding Child Abuse or Neglect," submitted by Nicole Rourke, Associate Superintendent, Community and Government Relations, Clark County School District.

[Exhibit G](#) is a letter dated May 3, 2017, regarding [Senate Bill 287 \(2nd Reprint\)](#), to Chair Woodhouse and members of the Senate Committee on Finance, from Kelly Wooldridge, Administrator, Division of Child and Family Services, Department of Health and Human Services.

[Exhibit H](#) is a letter in support of [Senate Bill 287 \(2nd Reprint\)](#), dated May 3, 2017, to Chairman Yeager and members of the Assembly Committee on Judiciary, from Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada, submitted by Michael Ramirez, Director of Governmental Affairs, Las Vegas Police Protective Association Metro, Inc.; and representing Nevada Law Enforcement Coalition.

[Exhibit I](#) is a letter in support of [Senate Bill 287 \(2nd Reprint\)](#), dated March 27, 2017, to Senator Heidi S. Gansert and Assemblywoman Jill Tolles, submitted by Terri L. Miller, President, Stop Educator Sexual Abuse, Misconduct and Exploitation.