MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Eighty-first Session
February 4, 2021

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 12:55 p.m. on Thursday, February 4, 2021, Online. Exhibit A is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Melanie Scheible, Chair
Senator Nicole J. Cannizzaro, Vice Chair
Senator James Ohrenschall
Senator Dallas Harris
Senator James A. Settelmeyer
Senator Ira Hansen
Senator Keith F. Pickard

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Ashlee Kalina, Assistant Policy Analyst
Nicolas Anthony, Counsel
Sally Ramm, Committee Secretary

OTHERS PRESENT:

Tamatha Schreinert, District Judge, Department 14, Second Judicial District
Linda Marquis, District Judge, Department B, Eighth Judicial District
Steven Cohen
Melissa Saragosa, Chief Judge Las Vegas Township Justice Court Department 4, Clark County
John McCormick, Assistant Court Administrator, Administrative Office of the Courts, Nevada Supreme Court
Bridget Robb, District Judge, Department 13, Second Judicial District
John Piro, Public Defender's Office, Clark County
Kendra Bertschy, Public Defender's Office, Washoe County

CHAIR SCHEIBLE:
I will open the hearing on Senate Bill (S.B.) 8.

SENATE BILL 8: Revises provisions governing guardianship of minors. (BDR 13-390)

TAMATHA SCHREINERT (District Judge, Department 14, Second Judicial District):
In Department 14, I oversee all the wards and custody matters and all minor guardianships in Washoe County. I also serve on the Nevada Supreme Court Guardianship Commission, as does District Judge Linda Marquis. The Commission supports S.B. 8.

In 2017, the guardianship statutes were rewritten to separate the adult and the minor guardianships into their own sections. When that occurred, the provisions for transferring and registering a guardianship was left out of the minor guardianship section. Senate Bill 8 remedies this by mirroring the provisions from the adult guardianship statutes and placing them into the minor guardianship statutes. In addition, S.B. 8 clarifies the definition of the child's home state to ensure it conforms to the other child and family statutes, specifically the Uniform Child Custody and Enforcement Jurisdiction Act (UCCJEA) which is a law that all states have subscribed to that ensures only one state at a time is making orders regarding a child. Finally, S.B. 8 allows for the appointment of a guardianship in Nevada as long as the child is here and it is in the child's best interests, even if Nevada is not the child's home state at the time of the appointment, but the child will be moving to Nevada within a period of time.

Section 2 is the ability to transfer a Nevada guardianship out of state. This assists people when they move to another state because it takes time to get a guardianship in the new state.

Section 3 allows the transfer of an out-of-state guardianship into Nevada. This applies to situations such as grandparents who have been the guardians in California for quite some time and who must move to Reno for a new job. This allows them to transfer the guardianship case to Nevada with the permission of the court in California so a case can be opened here. This allows the Nevada court to continue oversight of the guardianship. A hearing is required before granting the Nevada guardianship.

Sections 4 and 5 allow the registration of an out-of-state guardianship in Nevada, allowing oversight by Nevada courts. This is used in cases where a guardianship order from another state exists and is especially helpful when the child lives in a city that borders Nevada from another state and the guardianship was issued in that state. It allows the guardianship to be valid in Nevada for registration at school or other activities that require guardianships in both states.

Section 6 provides a description of home state, which requires that a child has lived in Nevada for at least six consecutive months prior to filing for a court order for guardianship. This section conforms the guardianship statutes to other statutes regarding home state.

Section 7 allows the appointment of a guardian in a case where Nevada is not yet the home state. It helps those who move to Nevada during the summer and must enroll a child in school. With this change in statute, guardians would not have to wait six months to get home state jurisdiction to enroll the child in school so long as the child is present in Nevada and it is in the child's best interest to issue the guardianship with court oversight and a hearing.

CHAIR SCHEIBLE:
Did you get a copy of the letter (Exhibit B) that we received from Sean McCoy regarding potential conflicts with UCCJEA?

District JUDGE SCHREINERT:
No, I am sorry to say that I did not. Did you, Judge Marquis?

LINDA MARQUIS District Judge, Department 14, Second Judicial District:
I did not.

CHAIR SCHEIBLE:
If I send it to you, would you take a look at it and get back to us on whether there are any conflicts between this law and the UCCJEA?

DISTRICT JUDGE SCHREINERT:
We would have no issue with that at all.

CHAIR SCHEIBLE:
I noticed that in section 6, lines 18 and 19, the language was changed from "a parent" to "a parent or a person acting as a parent." I have not seen this language used in our statutes before. Is this the first time it is being used, or does that have no known legal connotation?

DISTRICT JUDGE SCHREINERT:
I believe this is language taken from the UCCJEA to cover situations such as guardianship.

DISTRICT JUDGE MARQUIS:
In this context, the bill is alluding to a guardian who has a guardianship perhaps in another state and moved with that court's permission but has not yet been here for the six-month requirement. We are talking about two needs—the need to sign up for school and being able to put the child on the guardian's health insurance. A temporary guardianship is used for emergencies, but generally health insurance will not recognize a temporary guardianship. I also would note that there is an expert among us. Senator Harris has great insight.

CHAIR SCHEIBLE:
Would the intention or result of that language be that somebody who has a less formal arrangement, like taking care of a child without a formal guardianship, be covered under this statute if people have had the child in their care for four months in another state and now need to enroll the child in school in Nevada?

DISTRICT JUDGE MARQUIS:
This would apply to the people in those circumstances. The court would investigate the situation to get more information. It would be unique to have a nonparent without a formal custody or guardianship order resulting in no oversight. But this statute would include that type of scenario.

SENATOR HARRIS:
Are we switching "was physically present" to "lives with a parent or a person acting as a parent" in order to conform to the UCCJEA?

DISTRICT JUDGE MARQUIS:
I do not have a good answer to that, but I will follow up and send you the information. Our intention would be to conform to the UCCJEA because it

applies to all states. Sometimes a child can be physically present in a state without a person acting as a parent. I think that this is the distinction that the UCCJEA makes in this context. If a person brings a child to Nevada unlawfully, the person is not acting as a parent, so would be excluded from the provisions of this statute.

SENATOR PICKARD:
Judge Schreinert, you made the comment that we are mirroring the adult guardianships. However, with minor guardianships, we are also dealing with fundamental parental rights that we do not typically deal with in the adult guardianship arena. Please expand on the shifting of the burden of proof in section 2, subsection 1, paragraph (b) where the objector is required to make the offer of proof that it is not in the best interest of the minor to be transferred. In the majority of these cases, we are going to have a parent who could not take care of the child, so we have someone acting in a parental capacity. Why is this shift appropriate?

DISTRICT JUDGE SCHREINERT:
Minor guardianships are very different from adult guardianships. District Judge Marquis handles both, and I only handle minor guardianships, so she might be able to expand on that more. In terms of the burden of proof, we are dealing with the transfer of guardianship where we have the proof of a formal guardianship in another state where there have been filings made. This is not an opportunity for the parent to ask for a new hearing about the guardianship. The courts will have a hearing regarding the best interests of the child, hear any objections and see if the parents can meet that standard because circumstances can change.

DISTRICT JUDGE MARQUIS:
If a grandparent has a guardianship in California, the parent has already had notice and an opportunity to the right to appeal. In California, the grandparent would request permission from the court to relocate. Again, all of the family members would be notified, including the natural parents. A hearing would be held, with an opportunity for all to be heard and a right to appeal the final order.

Then, the person would move to Nevada and attempt to establish the Nevada guardianship. We are taking full faith and credit that the guardianship in California is valid and should be enforced. We already have permission of the California court that has been overseeing that guardianship for the guardians to

move. This process gives the natural parent notice of the citation and petition and an opportunity to be heard at the hearing. This is the time for the natural parents to perhaps establish a better visitation schedule, since the child has moved. I understand your concern that parents have a fundamental right, but I would suggest that they have had opportunities to contest the guardianship. There is also an ongoing opportunity at any time for a natural parent or any other family member to petition to terminate the guardianship. If the judge is concerned about the propriety of what is happening or about the allegations that are raised by the natural parent, we could appoint an investigator to get additional information about any issue or concern for our consideration. We are not starting from scratch on the guardianship.

SENATOR PICKARD:
When we are looking at these things, we are trying to look at the margins and see outside what the typical case would look like. What are the potential unintended consequences? What happens when we get a case, as I did several years ago, where the guardianship was obtained in another state without proper notice? As a result, we had a parent trying to obtain custody of the child finding out that a guardianship had been awarded a month before. A jurisdictional question was raised and a UCCJEA conference was held, which I assume would occur if there were any similar disputes.

How many cases are we talking about? I do not remember seeing many objections to transfers, but are we talking about something that is going to burden the district courts as we deal with this?

DISTRICT JUDGE SCHREINERT:
In Washoe County, we are speaking of a handful of cases. By putting this mechanism in place, it will alleviate some of the burden because at this point the people moving to Nevada have to apply for a new guardianship. If we had the transfer mechanism, we would have some background, things they are required to file, certified copies, that sort of thing. This will actually save time.

DISTRICT JUDGE MARQUIS:
I echo District Judge Schreinert's statement. It will save time for the court because it sets up a more clear procedure. A lot of families move in and out of our jurisdiction. During the past nine months, I have seen an uptick of cases. In these circumstances, it is especially difficult. Many times we have parents who pass away unexpectedly and the grandparents may be living in Sun City here in

a retirement community. Suddenly, they have the care and custody of their grandchildren. When they chose Clark County as their place of residence, they did not expect this tragedy. Many times we see them moving back to be closer to family. This procedure spells out what they need to do and how to handle it.

SENATOR PICKARD:
If we have the statistics, I would be interested to know how many cases we are dealing with.

SENATOR SETTELMEYER:
Will this bill help in situations with guardianships where grandparents are raising grandchildren because their children have drug- or alcohol-related issues? After the parents sober up, they want the child back. How does that work when the child is moved from another state to Nevada? How do the Nevada guardianship courts communicate with the courts in other states? Will this bill help that?

DISTRICT JUDGE SCHREINERT:
That is a situation we see quite often, and it is tragic for all involved. In a case with a guardianship in Nevada and the parties move to a different state, we would have a UCCJEA conference with the court in the other state to determine the best jurisdiction. If the child has been living in Nevada, we would be able to keep that jurisdiction to be able to make the decisions in the best interest of the child. That is part of the reason for the bill, to make sure we are conforming the statute to the UCCJEA.

STEVEN COHEN:
I would like to propose an amendment (Exhibit C). It addresses a related subject of supported decision making, at *Nevada Revised Statutes* (NRS) 162C.200. Supported decision making was conceived in the 2019 Legislative Session as an alternative to guardianship for adults in particular. It requires in-person signatures with witnesses. Unfortunately, that is not what the Covid-19 restrictions allow, so this amendment would allow electronic signatures and defer to the emergency statutes in situations like this. A time limit could be established. These requirements have made it difficult for people to implement supportive decision making for adults.

CHAIR SCHEIBLE:
I will now close the hearing on S.B. 8 and will open the hearing on S.B. 7.

SENATE BILL 7: Provides that the juvenile court has exclusive jurisdiction over certain orders for protection where the adverse party is a child under 18 years of age. (BDR 5-391)

MELISSA SARAGOSA (Chief Judge, Las Vegas Township Justice Court, Department 4, Clark County):
This bill relates to the jurisdictional authority for a temporary protective order (TPO) that applies to an adverse party who is a juvenile. The justice courts of our State hear all types of protection order applications with the exception of domestic violence and high-risk behavior, which are heard in the district courts in counties exceeding 700,000 in population.

Over the past 10 years, the Las Vegas Municipal Court has heard an average of 1,836 cases per year. There were 1,826 cases in 2020. However, less than ten of those cases fall into the category where a juvenile is an adverse party. Usually, those take the form of a protective order against stalking and harassment.

An illustrative case from May 2018 involved an application for protection against stalking and harassment against a middle school student who pushed another student and cracked her tooth. The Las Vegas Township Justice Court drafted a lengthy order with legal analysis and conclusions to transfer the case to the juvenile court, thinking that it would have proper jurisdiction. The district court transferred the case back to Justice Court for lack of jurisdiction, causing a delay in the action on the application and highlighting the problem that this bill hopes to resolve. It is not the volume that presents a problem for justice court, it is the jurisdiction.

The justice courts clearly have subject matter jurisdiction to hear various types of protection order cases as outlined in NRS 4.370 and in section 2 of the bill. However, there is no clear jurisdiction over the person of the juvenile adverse party.

Conversely, NRS 62B provides exclusive original jurisdiction over the juvenile in delinquency matters, but it does not provide subject matter jurisdiction for protection orders. We hope that this bill will provide clear jurisdictional authority in our statutes. The Las Vegas Township Justice Court believes these cases are more appropriate for the juvenile courts to hear, given the adverse party's age.

Should the justice court keep these cases, one of the problems is the court has no authority to enforce orders. The enforcement can take place in two ways: One is separate criminal action which for an adult would be either a misdemeanor or a gross misdemeanor, but for a juvenile, it would be initiation of a juvenile delinquency matter. Neither of these could happen for a juvenile in justice court. The other option would be a contempt of court action where the juvenile would be subject to jail time. There is no statutory authority that makes it clear a justice court can hold a hearing and potentially incarcerate a juvenile.

That gives you an overview of what we are looking at in this particular bill. I would be happy to provide the written order that we prepared in the May 2018 case mentioned earlier because it does have some legal analysis in it that might be interest to you, and it has an historical account of the creation juvenile court systems overall.

JOHN MCCORMICK (Assistant Court Administrator, Administrative Office of the Courts, Nevada Supreme Court):
The primary purpose of this bill is to get statutory guidance and statutory clarity in an area where none exists. The bill will accomplish this by granting exclusive jurisdiction to juvenile court provision for protection orders when the adverse party is a juvenile. One thing we have seen, and Judge Saragosa conveyed her experience, is that jurisdiction is handled somewhat differently in other counties, so another goal of this bill is to make jurisdiction uniform across the State.

In justice court, judges have the statutory authority to issue a protection order or an order for protection for minors; however, that can only be addressed against an adult adverse party. There is a statutory gap that this bill would fix by allowing a specific process for protection orders against juveniles to be sought.

Section 1 is the assigning of jurisdiction to the juvenile court or district court for protection orders regarding domestic violence, stalking, harassment, high-risk behavior, sexual assault and harassment in the workplace against juvenile adverse parties to district court or juvenile court. The protection type that is left out of the statute is that protection order for minors because that cannot be issued against a juvenile.

After discussions with the public defender's office yesterday, the first sentence in a proposed amendment (Exhibit D) was submitted that would remove

section 1, subsection 2 from the original bill because there was concern about appointing counsel. The public defenders believe that the court has the higher authority to appoint counsel as necessary so this issue does not need to be addressed in the bill.

Section 1, subsection 3 in the bill indicates that the protection order has to be served against the juvenile who is the adverse party as well as the parent or guardian of that child.

Section 1, subsection 4 in the bill would have required the protection be transmitted to the school which the adverse party or the protected party attends, and in discussion with the public defenders, we thought that this would not be necessary so we recommend it be removed, Exhibit D.

Section 1, subsection 5 reiterates the juvenile court has jurisdiction when a child is alleged to have violated the order and addresses the issue, that Judge Saragosa brought up about justice court not being able to hold the juvenile in contempt.

Section 1, subsection 6 indicates that if a protection order is issued against a juvenile who turns 18 during the time the order is effective, the order would remain effective until its expiration date or until the juvenile court dissolves the order.

Section 1, subsection 7 allows a juvenile court to automatically seal the records when the adverse party reaches the age of 21. Public defenders have some concern about the age. Discussions are continuing

Section 2 makes clear that a justice court does not have jurisdiction in protection order cases when the potential adverse party is a juvenile, and it adds that is appropriate throughout NRS 4.370 which is the justice court jurisdiction statute.

Section 3 deals with any protection orders that would fall in the gap between the effective dates on the bills to make sure nobody is left without an order.

The main goals are to provide statutory clarity and to make clear where, when, why and how a protection order is handled when the potential adverse party is a juvenile. The bill also makes it clear that protection orders in circumstances

like this are available when, for example, two seventeen-year-olds were in a dating relationship and there is an allegation of domestic violence. This bill would allow the victim to request a protection order through the juvenile court.

CHAIR SCHEIBLE:
I was surprised to hear that there were only ten of these cases last year. Would there be any reason to keep the ability for the district court to obtain jurisdiction? If a juvenile has been charged as an adult in a criminal matter, and the protection order being sought is pursuant to the same facts and circumstances as the criminal matter, would the district court issue a protective order?

The second situation would be where protective orders are sought between multiple parties like two neighbors or two families that are in need of distance. Mom and dad would be in district court and their sixteen-year-old neighbor in juvenile court creating an even messier situation than if they all just went to district court.

CHIEF JUDGE SARAGOSA:
We do not have any method of data counting the exact number of cases. There are no judges who can remember more than ten. This is an anecdotal amount. It is not uncommon in a serious situation that the juvenile would be tried as an adult. In the case of neighbor against neighbor, they are individual at-risk parties, not a family, as they go forth. I have seen cases where there are neighbors that are bothered by the children of their neighbors, throwing rocks and doing juvenile things, but I have never seen one where adults are charged in one case and juveniles in another. I do not think justice court is the place in the long run.

SENATOR HARRIS:
Mr. McCormick said that they would be amending out section 1, subsection 2, and I did not quite understand why that amendment is objectionable. Take me back through the logic on that.

MR. MCCORMICK:
In discussion with the public defender's offices, there was a concern about increasing a caseload for them by requiring the appointment of counsel. The Clark County Public Defender was more comfortable with that section being removed. In the event a juvenile was alleged to have violated an order, that

would be a contempt issue or a delinquency matter where the child could face potential loss of liberty, so counsel would have to be appointed.

SENATOR HARRIS:
It seems to me that section 1, subsection 2 is already permissive. It does not require the appointment of counsel. Did I hear you correctly that the court already has the authority to do what is in section 1, subsection 2?

MR. MCCORMICK:
I am not the arbiter of the inherent authority of the court, but I think a strong argument could be made that the court already has authority to appoint counsel as it sees necessary, particularly in the juvenile arena. When we were drafting, we were looking at the statute from Ohio's statutory scheme in getting this language.

SENATOR PICKARD:
This is an access to justice issue which is why we left it in the justice courts. Specifically, my question regards high-risk behavior, which is really behavior tied to firearms. Minors are not legally owners of firearms, but there are probably firearms in the home. My concern is if we have a situation where a minor is deemed to be engaging in some high-risk behavior and there are firearms in the home, are we then requiring the firearms to be confiscated from the home, ultimately then from people who are not implicated in the high-risk behavior. How does that work on a practical level?

MR. MCCORMICK:
I think because there was no specific statutory prohibition against a high-risk behavior protection order being issued against a juvenile that as a practical matter was included in this bill. It would be more a policy question for the legislative body to determine if that is the intent. The only protection order that was explored in drafting is the one that an order statutorily cannot be issued against a minor. If this passes and is effective tomorrow in this form and somebody petitioned for a high risk protection order, the court would have to analyze the case to determine if it is against a juvenile. It cannot be based on the firearms if access to the firearms is an issue. One thing we have seen since the implementation of the high-risk behavior protection orders is that the vast majority of those family applications for high-risk behavior orders have been found to be more appropriate for one of the standard protection orders, usually domestic violence or harassment.

SENATOR PICKARD:
Do we muddy the water by naming them since the high-risk protection order really was designed for only adults, and that is why the exclusion occurred; not that it was a deliberate step to exclude juveniles, but it did not apply to them because juveniles do not own firearms? In many respects, this was a means for family members to obtain the high-risk behavior protective orders where juveniles were a threat to themselves.

In Clark County, most of the juvenile cases are heard by the juvenile hearing masters. Are we maintaining that since we are taking this away from the justice courts, the juvenile hearing masters and their ability to hear these cases, or are all these cases going to be routed to our one juvenile district court judge?

MR. MCCORMICK:
This bill does not touch on that. It does not amend the existing statutory provisions that allow the appointment of masters, so I believe that masters would be able to hear these matters. This raises a good point. In some rural communities, which might be where an access to justice concern comes up, the justices of the peace have been appointed as juvenile masters to provide juvenile court. This would actually allow, practically, for the same court to be applied to for the order, but it would be done under the auspices of juvenile court. There is no intention in this bill to prohibit a master from doing that. In Clark and Washoe Counties, where the district court is the juvenile court, there is some leeway for the presiding or chief judge to make some determinations about who would hear this type of case.

SENATOR OHRENSCHALL:
In section 1, subsection 3, was this language from the Ohio law? What effect would this have on juveniles who have been adjudicated for the most serious crimes like sex offenses? This does not comport with Nevada law.

Regarding the sealing of juvenile records, setting the age of sealing the records at 21 concerns me because under NRS 62H.130, if children are adjudicated delinquent, they are potentially eligible to have their juvenile records sealed younger than age 18. I am concerned about pushing this up to age 21. It does not match current law.

CHIEF JUDGE SARAGOSA:
Regarding your point about reporting to the schools, that was the issue that I discussed yesterday with John Piro at the Clark County Public Defender's Office and Kendra Bertschy from the Washoe County Public Defender's Office during a conference call where we talked about a couple of these issues. I do not think the court wants to be in a position of having the burden of hunting down which schools are applicable to serve those documents, and we concurred to remove that section. The amendment, Exhibit D, that John McCormick has prepared does amend that section to delete the school reporting requirements. That is not to say that an applicant who is successful in obtaining a protective order cannot take it to the school, but that would not come before the court and would not be a mandatory report.

With respect to the age of sealing the records, this was another issue that we talked about during our conversation. We are completely open to any amendment regarding that. It does not appear to me to be any issue to seal records upon expiration if there is not an application to extend it further.

MR. MCCORMICK:
I took the school reporting language from the Ohio law. In retrospect, it is probably not right for Nevada. In drafting where it references NRS 62H.140 on record sealing, that is when the record is mandatorily sealed at age 21, so that was the idea. We could amend the bill to include NRS 62H.130 stating that a juvenile adverse party's records could be sealed at age 21.

SENATOR HARRIS:
I have noticed that NRS 33.400 is excluded from section 1, subsection 1. I have been informed that this is actually a common way that protective orders against juveniles are brought. Is it your intention to have those not be under the jurisdiction of the juvenile court? Or was it an oversight? Why was it not included?

CHIEF JUDGE SARAGOSA:
It was not an oversight or any intention to exclude the provisions; NRS 33.400 is the provision of the law that allows for a petition on behalf of a child, so if we refer to that statute, it specifically says that the parents or guardian of a child may petition any court of competent jurisdiction on behalf of the child for a temporary or extended order of protection against a person who is 18 years of age or older. That is the correct language in that provision, which is why it was

intentionally left out of the juvenile provision. The language speaks clearly that you cannot get one of those orders against a juvenile. I do not know why that is the only protective order statute that has that sort of age restriction, which is unusual, and I am not sure of the legislative history behind it, but that is the reason NRS 33.400 was excluded from this bill.

SENATOR HARRIS:
Is it your contention that this section cannot be used to bring a protection order against a minor?

CHIEF JUDGE SARAGOSA:
Yes. That is my understanding of the way that statute is written.

CHAIR SCHEIBLE:
I understand NRS 33.400 to be the statute that allows parents to get protective orders against adults on behalf of their children. Would this bill allow parents to get that particular order on behalf of their children against another minor?

MR. MCCORMICK:
That would theoretically be permissible under this bill. I do not know that we specifically address the parent applying on behalf of the minor, but the bill as proposed only addresses the adverse party, not necessarily the protected party. If that is a concern, there could be a provision allowing for this scenario. There would have to be some legal analysis on whether parents could apply for orders on behalf of their children with the juvenile court against a juvenile adverse party. Our concern was the adverse party, not necessarily the potentially affected party.

CHIEF JUDGE SARAGOSA:
One issue is the judiciary is always cautious of encroaching on the Legislators' authority. It is not our intent to create policy. We are trying to present before you a manner of providing clarity of the jurisdiction over the adverse party. By all means, I hear you loud and clear, not from a judicial perspective but from the perspective of parents. I agree that parents are appropriate to stand in on behalf of their children to seek protective orders against adults in the justice court or district court or if juveniles, in the juvenile court. But we did not take that liberty out of respect because we were trying to clear up a jurisdictional issue and not create policy. We are happy for any amendments along those lines at your discretion.

BRIDGET ROBB (District Judge, Department 13, Second Judicial District):
My colleagues in the Second Judicial District and I are in favor of S.B. 7 for the reasons already stated by Judge Saragosa. We believe that there is a jurisdictional issue, and the district court is in a better position already to have the juvenile court report able to deal with the TPO issue regarding juveniles.

To answer some of the questions that have been asked: Chair Scheible, your question regarding serious cases involving things such as sexual assault; having presided over some of those cases, I know that there is almost always an order that the juvenile stay away from the victim. This is already taking place in juvenile court.

For Senator Pickard, I agree regarding the access to justice. One of the considerations for our bench was the fact that this will clarify where an applicant needs to file the TPO application as opposed to having to pick a court. Right now, if it concerns domestic violence, it goes to the district court whether it is a juvenile or not. If it is other types of TPO, for example, stalking and harassment, those would be filed in justice court. This is going to make it easier for applicants because they will not have to make a choice. If it involves a juvenile, it will be filed with the district court.

JOHN PIRO (Public Defender's Office, Clark County):
We fully agree that protection orders involving juveniles should be handled in juvenile court. However, at this time, pursuant to Committee rules, we have to oppose the bill. As Mr. McCormick and Judge Saragosa both have stated, we have a good working relationship with them. We believe we will be able to work this situation out and move us out of the opposition position.

One of our first issues was section 1, subsection 2, the appointment of counsel. As Judge Saragosa said the courts do not have the exact numbers. The judges think it is ten cases. In 2019, our 11 juvenile attorneys handled 2,979 cases. That is 270 cases per attorney. In 2020 it was different because of the pandemic. They handled 1,732 cases between 11 attorneys and that was 157 per attorney. Adding any more workload without increasing personnel in this Office is a concern and may trigger us to run the numbers and perhaps put a fiscal note on the bill. That is why the goal is to remove section 1, subsection 2. Even though the court does have discretion to appoint counsel, it has been our experience that when the judge has the option to appoint, they do appoint.

Another issue was section 1, subsection 4, notification to the schools. Senator Ohrenschall addressed our concerns, but Mr. McCormick said their group is willing to remove that. We do not want notification to the minor's school to be used as a way to remove them from school and therefore exacerbate the problem with the school-to-prison pipeline, especially if the offense is something like a fight between students. We are in talks with the sponsor, and perhaps we can fix that.

Our next concern is section 1, subsection 7. This allows for the automatic record sealing. Mr. McCormick said we can fix that as well.

Lastly, we are also concerned about section 1, subsection 5 regarding the contempt of court.

These are our concerns with the bill, and we hope we can work this out and move us out of the opposition position.

KENDRA BERTSCHY (Public Defender's Office, Washoe County):
As Mr. Piro indicated, we are testifying in opposition today but hope to come to a different position based on addressing our concerns. We do appreciate the sponsors working with us so quickly to remove the school reporting requirements. An overarching policy concern that we need to address with this bill is that we do not perpetuate the school-to-prison pipeline. This bill will put juveniles who are not already involved in the juvenile delinquency system under the juvenile court's jurisdiction and potential supervision.

With that in mind, my Office differs from Mr. Piro's Office in that we believe it is mandatory that attorneys are appointed to these cases as soon as possible so that we can help ensure that juveniles understand expectations, understand the orders and have someone advocating in court on their behalf. Regarding section 1, subsection 2, we strongly believe that a mandate that counsel is appointed at the issuance of the TPO or upon the setting of any hearing, remain in the bill. We are in a difficult position because we do not have data on how many cases this will affect or how it will increase our workload. Even with that in mind, we believe that because of the consequences of these issues and orders and potential penalties that could happen if the order is violated, the importance of having an attorney is justified.

As Mr. Piro indicated our other concern was specifically section 1, subsection 7. I believe Judge Saragosa said that she is in favor of allowing automatic sealing upon expiration of the order. We would be in favor of that. Not all juveniles may have been previously under delinquency cases, so we want to make sure there is a mandatory hearing process and it occurs prior to age 21.

Additionally, NRS 33.560 sets forth a process that would allow an adverse party to request information to be removed from the Central Repository for Nevada Records of Criminal History, and we want to make sure that would be applied in these cases. For example, if the court decided that it did not have the ability to extend a protective order, we want to make sure that provision is set forth as well. The additional concern that we have is with the process in terms of how service is accomplished on these children. For example, we want to be sure that no one believes that it is appropriate to have an officer go to a minor's school and serve the order.

We look forward to the continued conversations to ensure that we adequately protect our children and do not pass any legislation that unintentionally causes harm.

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CHAIR SCHEIBLE:
We would like the sponsors of the bill to provide us with the order that you mentioned from the May 2018 case that was utilized to explore these jurisdictional issues.

We will close the hearing on S.B. 7 at 2:18 p.m.

RESPECTFULLY SUBMITTED:

Sally Ramm,
Committee Secretary

APPROVED BY:

Senator Melanie Scheible, Chair

DATE:

EXHIBIT SUMMARY				
Bill	**Exhibit Letter**	**Begins on Page**	**Witness / Entity**	**Description**
	A	1		Agenda
S.B. 8	B	1	Sean McCoy	Support Testimony
S.B. 8	C	1	Steven Cohen	Conceptual Amendment
S.B. 7	D	1	John McCormick	Judicial Branch Amendment