MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON JUDICIARY

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
May 15, 1981

The Senate Committee on Judiciary was called to order by Vice Chairman Keith Ashworth at 8:10 a.m., Friday, May 15, 1981, in Room 213 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Keith Ashworth, Vice Chairman
Senator Don W. Ashworth
Senator Jean E. Ford
Senator William J. Raggio
Senator William H. Hernstadt
Senator Sue Wagner

COMMITTEE MEMBER ABSENT:

Senator Melvin D. Close, Chairman

GUEST ASSEMBLYMAN PRESENT:

Mr. Nicholas J. Horn, Clark County, District 15

STAFF MEMBERS PRESENT:

Sally Boyes, Committee Secretary

SENATE BILL NO. 654:

Revises provisions governing termination of parental rights.

Mr. John Mendoza, Judge, Eighth Judicial Court of Las Vegas, stated he felt the welfare division, the attorney general and the courts all felt there should be an amendment to the present statute on the termination of parental rights. Present statute on this issue is overly broad. There have been numerous pro-

blems on interpretation. Previous case histories have been the only guideline as far as handling this type of case. This bill is an accumulation of the experience of 30 judges throughout the United States and the experience of the people in Nevada who have had to deal with this statute. It is the feeling of all these people this bill is more specific in stating grounds or conditions courts should be considering before termination of rights. Much of the bill is from the Model Termination Act which was prepared by the National Counsel of Juvenile and Family Court Judges. There is a need for this type legislation because of recent legislation, public law 96.272, federal act requiring the state to proceed the case planning in every case for children who are not in placement and to provide a judicial review system. What has been found in examining these children in placement is parents are abandoning these children to the courts and welfare division and government; this is the day of throw away children. Parents are avoiding completely the responsibility of children. This is what is creating the problem of caring for these children year after year. A few years ago, all a parent had to do was send a postcard to a child or make a telephone call and that was sufficient to stop a termination of rights because that was all that was necessary to establish contact with a child. There are cases in which a child has moved 20 times with a new set of parents each time; this is quite an adjustment on a child. Children can be helped if they are freed for adoption. Clark county has been doing this with the aid of LDS social services, Catholic Welfare and aid for the adoption of special kids and it has been done through the case planning system. Children have been moved out of Foster Care, to the area of termination. The Attorney General of the State of Nevada gave figures for the average length of time for foster care, prior to 1980, was three to five years. In the last year it has been reduced to 18 months. He further stated only 15 cases of over 200 termination cases have been contested. This means once parents drop these children, they leave. The court system holds these children in foster care. There is a reluctance to proceed because of the vagueness of the statute. There are numerous groups throughout the state that support this legislation. Mr. Mendoza then read the bill to the committee.

Senator Hernstadt asked how many parents are there that really do not want a child. Mr. Mendoza stated he had no accurate figure, but he would guess there is about one third of the case load. Clark county has a case load of about 600 and the case load from protective services has about 150. Mr. Mendoza stated

the welfare division has a provision in the contract of foster parents that the foster parent may not apply for adoption of a foster child. He stated because of a case in which this happened, the policy of the welfare division had changed and the contract had changed.

Judge Mendoza sited a parental rights termination case and a copy of the case is attached hereto. See Exhibit C. Senator Don Ashworth asked if a pro bono attorney could be appointed. Judge Mendoza stated they could be but there were very few attorneys that would take it on that basis. Senator Raggio stated he felt that appointment of an attorney for a child should be permissive because not all children would require an attorney. Judge Mendoza stated sections 6, 7, 8, 9, 11, line 16, 17 and 18 are mainly from the Model Termination Act. Senator Raggio stated page 6, section 19, line 32, number 7 should be changed to read "spouse" instead of father. Judge Mendoza agreed that should be changed.

Mr. Dean McCarty, Las Vegas, stated the National Foundation of Juvenile Court Judges was offered a grant to explore the issue of children getting lost in the shuffle of foster homes. There were 14 juvenile courts choosen around the country to assist in this exploration. Teams of people were sent in to review the records of children that had been committed to foster care and other kinds of institutional placement by the court; this was done through the permission of the courts and the local law enforcement agency in the area. The determination was made that the Foundation's opinion was correct, children were getting lost in the shuffle, reviews had not been made on previous placement of children and children were being moved from one place to another. There were instances of children 21 years of age still receiving foster care payments. This was due to the large case load and insufficient case workers and also due to lack of responsibility from the courts to review these situations. The foundation felt it was the responsibility of the courts to review these cases and determine the standing these cases were in. He stated he felt this bill should be passed.

Senator Don Ashworth asked if Mr. McCarty felt there should be any other provisions of the Model Termination Act that should be in this bill. Mr. McCarty stated he felt the bill was adaquate.

Ms. Jannet Bugness, employee of the Clark County of the Juvenile Court, stated she is the supervisor of CASA - Court Appointed Special Advocates, Presently there are 80 volunteers in the Clark County area who receive training and are matched to a child abuse and neglect case. These volunteers function in court and the entire process of case planning as independant advocates and representatives for these children. She stated she is representing these people. These volunteers are appointed on some of the most severe cases; after independant investigation of these cases, the volunteers advocate for the child. She stated some parents do not want their children from day one; others voice concern but do nothing about the care of these children; others have good intentions but do not have the capacity to be a good parent. Present law does make provision for the severe reaction some children have to a proposed visit to their parents or the reaction after a visit to their parents. She stated she felt the general feeling seems to be that children are chattle, or property; there is a need for balance between the needs of the child and the needs of the parents. She stated the people she was representing feel this type of legislation is necessary for the balance that needs to be struck for the relationship of parent and child. Senator Wagner stated the word "termination" represents a problem because of the conotation that is associated with it; a better choice of words could be more effective. She also asked how current law in Nevada was in regard to other states laws. Ms. Bugness stated she was not that familar with other states laws for a comparison. The opinion from the attorney general that he received from different judges, is that the present situation is unworkable. One judge has stated that in addition to whatever the abuse or neglect was that brought a child into custody, a case for termination must require that a child be placed again into that custody situation and allow a second abuse of the child. The child is being used as a guinea pig.

Ms. Mary Lee, Welfare Division, proposed some amendments to the bill. She stated the welfare division felt the bill as it presently was, was too broad and too vaque. Section six should be more limited in scope and need to be related to parenting ability. See Exhibit D. Ms. Lee stated the guideline of the amendments that are in Exhibit D are based on other than the Model Act Of Termination. Senator Wagner asked what act these amendments were drawn from. Ms. Lee stated there are several model acts dealing with the termination of parental rights. These amend-

ments were drawn from a model that was developed through a grant to the department of Health, Education and Welfare. Senator Wagner asked what model act does most of the information come from. The statement was made it came for the National Counsel of Juvenile Court Judges, adopted in 1976. Ms. Lee requested section eight be deleted. She stated when foster parents and natural parents are compared, the foster parents usually come out looking better than the natural parents. The foster parent is more stable in a job and usually have a better income. Any comparison is prejudicial to the natural parents.

Ms. Handley, Welfare Department, stated adoption by a foster parent has always been permitted for as long as the 26 years she has been associated with it. There was a statement on the contracts in the early 1970ties that stated the foster parents would not seek to adopt the child; this was when the supply of normal, healthy children dropped and the availability of a child was decreased. It was usually only applied to a normal, healthy child. Senator Wagner asked how many cases were there that involved the termination of parental rights. Ms. Lee stated she had no statistics on the actual number of cases; but she could state how many children were placed for adoption. She stated it was the opinion of the division not to terminate parental rights until there was an adoption. Last year the division placed 126 children for adoption; not all of those cases required termination, some of them were voluntary. Senator Wagner asked how many children currently live in foster homes. Ms. Handley stated as of April 1, 1981, there 614 and an additional 108 in institutions; hospitals, etc. Senator Wagner asked how long the normal duration was for a child to stay in a foster home. Mr. Lee stated the last study was done in January, 1981, and the average is 13 months.

Mr. William Moore, representative of the Nevada P.T.A. He stated this organization involves about 3,000 people and they are in support of this bill. He stated section nine, subsection c of the bill is reason enough to support the bill and then read that section.

Mr. Darrell D. Luce, Christian Science Committee on Publication for Nevada, stated there are three other states that have similar language in regard to termination of parental rights. His statement is attached. See Exhibit E. He requested the amendment he proposed be considered by the committee.

Mr. Frank Harmon, Youth Services Division, stated this division supports this bill or S.B. 322 and felt this bill gave good guidelines in regard to the termination of parental rights.

Mr. Hank Cavalera, Attorney, stated he represents people who are disabled parents. The children have been removed from the home temporially and through the efforts of the staff of the welfare department the parents and the children have been reunited. He stated in section six, subsection seven, it might be advisable to make it mandatory to have a public agency try to reunite the family. Mr. Mendoza stated page one, section two, line nine, that area was covered. Mr. Cavalera stated as he understood this he could not understand if a case plan was suggested in every case. Mr. Mendoza stated a bill would considered May 18, 1981 in regard to that.

ASSEMBLY BILL NO. 386:

Provides that prisoner sentenced to life with possibility of parole must serve minimum of 10 years in prison.

Assemblyman Nick Horn, District 15, stated this was a very simple bill. He stated A.J.R. 35 was passed and a meeting was held with several people, including the attorney general, and concern was stated over the issues. This bill allows for the exceptions for the possibility of parole. He stated it would be the discretion of the committee to change the life with provision to 10 years or let it remain at five years. Senator Wagner asked how these exceptions were arrived at. Mr. Horn stated these provisons came about through working with the govenor and Bret Armstrong. He stated the average years of age of an offender is between the ages of 20 and 28. Mr. Horn stated these exceptions related to the prior life of the offender before he was imprisoned.

Mr. Robert Mannly, Attorney General's Office, Criminal Division, stated that office supports the concept stated in A.B. 386. He felt this bill would have the effect of keeping prisoners in prison longer and the violent prisoner would be kept with less hope.

Mr. Steve Robinson, Department of Prisons, stated this bill would have a definite impact on the state of the prisons beyond what was projected. He felt within five years, this bill would effect about 12 inmates per year; by July 1, 1991 approximately 60 inmates would be effected. This will have to be dealt with.

Senate Committee on Judiciary
May 15, 1981

SENATE BILL NO. 674:

Establishes special guardianships for persons of limited capacity and revises procedure for appointment of guardians.

Senator Ford stated this bill was a revision of S.B. 407 and was worked on in a sub-committee.

Mr. Hank Cavalera stated he supports the bill the way it was.

Mr. Dan Payne, Associate Administrator of Mental Retardation, stated he was in full support of the language of this bill.

Mr. Orvise Reil, AARP and NRTA, stated he was in full support of this bill and should there be any pitfalls in it during the next two years, it would come back at the next session.

Ms. Susan Hoss stated she felt the sub-committee did a super job on the bill.

Vice Chairman stated S.B. 670 would be rescheduled as there was not sufficient time to hear the bill.

There being no further business, the meeting was adjourned at 10:15 a.m.

Respectfully submitted by,

Sally Boyes

Sally Boyes, Committee Secretary

APPROVED:

Senator Keith Ashworth, Vice Chairman

DATED: May 30, 1981

EXHIBIT A

SENATE AGENDA

COMMITTEE MEETINGS

Committee on JUDICIARY, Room 213.

Day Friday, Date May 15, Time 8:00 a.m.

AMENDED MEETING SCHEDULE

5-14-81

S. B. No. 654--Revises provisions governing termination of parental rights.

S. B. No. 670--Reduces showing required in hearing on notice of pendency of action affecting real property.

A. B. No. 386--Provides that prisoner sentenced to life with possibility of parole must serve minimum of 10 years in prison.

S. B. No. 674--Establishes special guardianships for persons of limited capacity and revises procedure for appointment of guardians.

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EXHIBIT B

ATTENDANCE ROSTER FOR COMMITTEE MEETINGS

SENATE COMMITTEE ON JUDICIARY

DATE: May 15, 1981

PLEASE PRINT NAME	PLEASE PRINT PLEASE PRINT ORGANIZATION & ADDRESS	PLEASE PRINT TELEPHONE
[illegible]	AARP-NRTA	
[illegible]	AARP/NRTA	
Orvis E. Reil	AARP/NRTA - Nevada Joint State Legislative Committee	882-1675
[illegible]	[illegible] Div. of Aging	358-5166
[illegible]	NRTA	331-5670
[illegible] McHardy	citizen	747-5395
Louis McHardy	CITIZEN	747-5395
Mary Lee	STATE WELFARE	885-4771
[illegible] Handley	State Welfare	885-4771
John [illegible]	8th Judicial L.U.	642-9090
[illegible]	Christian Science Church	385-2655
[illegible] Middleton	Div MH-MR	885-5943
[illegible]	"	"
Bill [illegible]	Nev PTA	452-2144

1973

EXHIBIT C

United States District Court

FOR THE

DISTRICT OF NEVADA

CAROL C. FITZGERALD
BY [illegible] CLERK
DEPUTY

CIVIL ACTION FILE NO. CIV-LV-79-128, HDC

DARLENE BROWN, et al,

vs.

THE HONORABLE ADELAIR D. GUY, etc., et al,

JUDGMENT

This action came on for trial (hearing) before the Court, Honorable HARRY E. CLAIBORNE, United States District Judge, presiding, and the issues having been duly tried (heard) and a decision having been duly rendered,

It is Ordered and Adjudged that preliminary injunction shall issue as to Plaintiffs Brown, Kennedy and Wells and is denied as to the class.

ENTERED

AUG 9 1979

CLERK, U.S. DISTRICT COURT
DISTRICT OF NEVADA
BY [illegible] DEPUTY

Dated at Las Vegas, Nevada, this 9th day of August, 19 79.

CAROL C. FITZGERALD
Clerk of Court

By: Linda Shaw
Deputy Clerk

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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

DARLENE BROWN, MARY KENNEDY and DANIEL WELLS, Individually and on behalf of all other persons similarly situated,

Plaintiffs,

vs.

THE HONORABLE ADDELIAR D. GUY, Individually and in his official capacity as JUVENILE COURT JUDGE IN THE EIGHTH JUDICIAL DISTRICT COURT: THE HONORABLE MICHAEL J. WENDELL, Individually and in his official capacity as JUDGE IN THE EIGHTH JUDICIAL DISTRICT COURT; THE HONORABLE JACK BUTLER, Individually and in his official capacity as REFEREE OF JUVENILE COURT IN THE EIGHTH JUDICIAL DISTRICT COURT: and all other DISTRICT COURT AND JUVENILE JUDGES OF CLARK COUNTY, NEVADA, Individually and in their official capacity as JUDGES IN THE EIGHTH JUDICIAL DISTRICT COURT.

Defendants.

CIV-LV-79-128,HEC

DECISION

This matter comes before the Court upon the motion of the Plaintiffs for a preliminary injunction and for declaratory relief. The Plaintiffs are indigent parents who may be deprived of the custody of their children in child neglect or abuse proceedings and in termination of parental rights proceedings in the Eighth Judicial District Court of Clark County, Nevada. The Plaintiffs seek relief by seeking

a preliminary injunction enjoining the Defendants from further action in said cases until the Court has appointed counsel for the Plaintiffs. Jurisdiction is conferred on this Court by Title 28 U.S.C. §1343(3)(4) and 42 U.S.C. §1983.

The Plaintiffs were proceeded against by the State of Nevada by petitions duly filed in the Eighth Judicial District Court in and for the County of Clark wherein the Plaintiffs were accused of neglect and/or child abuse whereby the State seeks a termination of their parental rights by reason of such neglect and/or abuse. Plaintiffs upon being served with the aforesaid petitions filed motions with the Court supported by affidavits alleging that each of them were indigent parents and without funds with which to hire counsel and requesting Court appointed counsel. These motions were denied by the trial judges upon the same ground, to wit: that it was not the policy of the Court to appoint counsel for indigent parents in proceedings pertaining to the custody, neglect or abuse of their children.

Therefore, the issue squarely before this Court is: did the Eighth Judicial District Court of the State of Nevada in and for the County of Clark deny these indigent parents procedural and substantive due process of law, and equal protection under the law by refusing to appoint counsel for them. I must answer this in the affirmative.

As early as 1963, the Supreme Court of the United States recognized the appointment of counsel to an indigent defendant in a criminal case was a fundamental right essential to a fair trial in its landmark decision of Gideon v. Wainwright, 372 U.S. 335, 9 L.Ed. 2d 799, 83 S. Ct. 792 when it said:

> From the very beginning, our state and national constitutions and laws have laid great emphasis on procedural and substan-

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tive safeguards designed to assure fair trials before impartial tribunals in which every defendant stands equal before the law. This noble ideal cannot be realized if the poor man charged with crime has to face his accusers without a lawyer to assist him. A defendant's need for a lawyer in the moving words of Mr. Justice Sutherland in Powell v. Alabama: "The right to be heard would be, in many cases, of little avail if he did not comprehend the right to be heard by counsel. Even the intelligent and educated layman has small and sometimes no skill in the science of law. If charged with crime, he is incapable, generally, of determining for himself whether the indictment is good or bad. He is unfamiliar with the rules of evidence. Left without the aid of counsel he may be put on trial without a proper charge, and convicted upon incompetent evidence, or evidence irrelevant to the issue or otherwise inadmissible. He lacks both the skill and knowledge adequately to prepare his defense, even though he have a perfect one. He requires the guiding hand of counsel at every step in the proceedings against him. Without it, though he be not guilty, he faces the danger of conviction because he does not know how to establish his innocence.

I see little distinction between civil and criminal proceedings as far as constitutional significance is concerned. Loss of liberty is still loss of liberty whether it occurs in civil or criminal litigation. The loss is no less merely because the adversary proceeding is labeled "civil". Indeed, the factor of punishment inherent in the stigma which attaches to a parent who has been found guilty of child abuse or neglect by civil decree may be more traumatizing than a fine or imprisonment in a criminal proceeding. Too, the loss of one's child may be the severest form of punitive sanction. Similarly, a child removed from parental custody may suffer such serious emotional disturbance and conflict that its ability to function as a normal human being in a free society is impaired to such an extent that it can gain no meaningful benefit from its constitutional right to the pursuit of happiness. The family has been traditionally recognized by society as the most

basic human and psychological unit, and when the State intrudes with its vast resources in an attempt to disassemble that unit, then every safeguard under the law must be abundantly exercised by the Court to guarantee that the inherent imbalance of experience and expertise between the parent and state is minimized to the greatest extent humanly possible. Truly, then one of the essentials would be to put the parent in a near equal position as far as counsel is concerned with the State. Thusly, a minimum standard of due process requires that an indigent parent charged with neglect or abuse facing the potential for termination of parental rights and even criminal prosecution be furnished Court appointed counsel.

A parent's right to the companionship, care, custody and control of their children is fundamental and protected by the due process clause of the Fourteenth Amendment, though not enumerated in the amendment itself. However, a right is determined to be fundamental by ranking constitutional rights, called "Spectrum of rights" by the U. S. Court of Appeals for the Fifth Circuit. They said in Karr v. Schmidt, 460 F. 2d 609 (1972):

> At one end of the spectrum are the great liberties such as speech, religion, and association specifically guaranteed in the Bill of Rights. Of equal importance are liberties such as the right of marital privacy that are so fundamental that, even in the absence of a positive command from the Constitution, they may be restricted only for compelling state interests. At the other end of the spectrum are the lesser liberties that may be invaded by the state subject only to the same minimum test of rationality that applies to all state action. See, e. g., Ferguson v. Skrupa, 372 U.S. 726, 83 S. Ct. 1028, 10 L. Ed. 2d 93 (1963).

Liberty as used in the Fourteenth Amendment was defined by the United States Supreme Court in Meyer v. Nebraska, 260 U.S. 390 (1932), as:

> While this court has not attempted to define with exactness the liberty thus guaranteed, the term has received much consideration and some of the included things have been definitely stated. Without doubt, it denotes not merely freedom from bodily restraint but also the right of the individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men.

This right of parental custody and control of their children being protected by the due process clause of the Fourteenth Amendment is not new.

In Stanley v. Illinois, 405 U.S. 645 at 651, the Supreme Court of the United States said:

> The Court has frequently emphasized the importance of the family. The rights to conceive and to raise one's children have been deemed "essential," Meyer v. Nebraska, 262 U.S. 390, 399, 43 S. Ct. 625, 626 67 L. Ed. 1042 (1923), "basic civil rights of man," Skinner v. Oklahoma, 316 U.S. 535, 541, 62 S.Ct. 1110, 1113, 86 L.Ed. 1655 (1942), and "[r]ights far more precious . . . than property rights," May v. Anderson, 345 U.S. 528, 533, 73 S.Ct. 840, 843, 97 L.Ed. 1221 (1953). "It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder." Prince v. Massachusetts, 321 U.S. 158, 166, 64 S.Ct. 438, 442, 88 L.Ed. 645 (1944). The integrity of the family unit has found protection in the Due Process Clause of the Fourteenth Amendment, Meyer v. Nebraska, supra, 262 U.S. at 399, 43 S.Ct. at 626, the Equal Protection Clause of the Fourteenth Amendment, Skinner v. Oklahoma, supra, 316 U.S., at 541, 62 S.Ct. at 1113, and the Ninth Amendment, Griswold v. Connecticut, 381 U.S. 479, 496, 85 S.Ct. 1678, 14 L.Ed. 2d 510 (1965) (Goldberg, J. Concurring).

Then if the family integrity is a constitutionally protected right under the due process clause of the Fourteenth Amendment, then it must be made meaningful.

In these cases, the Department of Welfare is

represented by an attorney for the State. The attorney is usually assigned to that department for extended periods of time and develops experience and expertise in the trial of such matters. He is aided in his case by numerous social workers, investigators and staff members all highly trained. He has access to all public agencies and the department's records. The thought of an indigent parent, most generally uneducated, facing this battery of experience, power and expertise in an adversary proceeding without counsel is as terrifying to this Court as it surely must be to the parent. Surely, if the principle of equal justice under the law is to be maintained, an indigent parent in this situation must be afforded counsel.

I have not lost sight of the financial expense the state will be put to as a result of this decision, but this was explained by the U.S. Court of Appeals for the Ninth Circuit in Cleaver v. Wilcox, 499 F. 2d 940 (1974) when it said:

> The state's interest in saving public money does not outweigh society's interest in preserving viable family units and the parent's interest in not being unfairly deprived of control and custody of a child. Protection of a right as fundamental as that of child custody cannot be denied by asserting that counsel in civil litigation has always depended upon the free enterprise generalization that one usually gets what one pays for.

This Court does not hold that in all future dependency proceedings that counsel should be appointed. I hold that due process requires the state to appoint counsel whenever an indigent parent, unable to present his case properly, faces a reasonable possibility of the termination of his parental rights or of prolonged separation from a child. In other words, the District Court Judge should determine the need for Court appointed counsel on a case by case basis, taking into consideration such factors as suggested in Cleaver v. Wilcox, supra:

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One such factor is the length of the separation which the parents may face . . . The greater the probability of removal, based upon the facts of the case and the social-service worker's recommendation, the more pressing will be the need for appointed counsel. A second factor is the presence or absence of parental consent or of disputed facts. Also relevant is the parent's ability to cope with relevant documents and the examination of witnesses. The more complex the case, the more counsel can contribute to the hearings. Finally, should the judge refuse a request for counsel, it is important that the grounds for the refusal be stated in the record so that meaningful judicial review of the refusal can be had in the state courts.

The preliminary injunction shall issue as to Plaintiffs Brown, Kennedy and Wells and denied as to the class.

DATED: This 9th day of August, 1979.

UNITED STATES DISTRICT JUDGE

EXHIBIT D

AMENDMENTS TO SB 654

Section 6

The Welfare Division feels this section needs to be more limited in scope and that it needs to be related to parenting ability.

#1. We recommend that the following be added to #1:

Emotional illness, mental illness or mental deficiency of the parent rendering the parent consistently unable to care for the immediate and continuing physical or psychological needs of the child for extended periods of time.

We feel that #2 is too vague and should be deleted.

We feel #3 should be limited to excessive use of intoxicating liquors, controlled substances or dangerous drugs rendering the parent consistently unable to care for the child.

We feel #4 is too broad. We recommend the following language: Repeated or continuous failure by the parent or parents, although physically and financially able, to provide the child with adequate food, clothing, shelter and education or other care and control necessary for his physical, mental and emotional health and development, but a person who, legitimately practicing his religious beliefs, does not provide specified medical treatment for a child is not for that reason alone a negligent parent.

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We feel #5 is too broad. We recommend the following language: Conviction

of the parent or parents for commission of a felony, if the facts of the crime are of such a nature as to prove the unfitness of the parent or parents to provide adequate care and control to the extent necessary for the child's physical, mental or emotional health and development.

Section 13

We feel the language in this section is vague and archaic. We recommend that this definition be revised as follows:

The parent is unfit if the conduct or condition of the parent is such that it renders him unable to properly care for the child and such conduct or condition is unlikely to change in the foreseeable future.

PRESENTATION ON S. B. 654:

EXHIBIT E

Christian Science Committee on Publication for Nevada

1717 East Charleston Boulevard
Las Vegas, Nevada 89104

Phone: (702) 384-4155
Night 385-2655

I am concerned about the wording in S. B. 654 where it uses the basis of not providing medical treatment as one of the reasons why parental rights could be terminated. It would be normal for Christian Scientists to rely on their religion for their family health care. So, I feel that an amendment to this bill would be in order to cover this situation.

In the Nevada State Constitution, we find the following wording: "The free exercise and enjoyment of religious profession and worship without discrimination or preference shall forever be allowed in this State,....but the liberty of conscience hereby secured, shall not be so construed, as to excuse acts of licentiousness or justify practices inconsistent with the peace or safety of this State." This wording would indicate that the founders of our state recognized due consideration of religious liberty. And the only qualifications to this would be if someone was practicing their religion so that they were acting immorally or in some way endangering the safety of the general public.

Christian Science has been practiced in the world for over 100 years and our churches have been established here in Nevada for over 60 years. Special provisions for Christian Scientists are provided by most all insurance companies, and there are also provisions for our church members under the Medicare Act.

Around 1920 a provision was added to the Nevada Revised Statutes stating "None of the provisions of this chapter or the laws of this state regulating the practice of medicine or healing shall be construed to interfere with treatment by prayer or with any person who administers to or treats the sick or suffering by mental or spiritual means,...." (NRS 439.530)

Also in the Physician's Licensing Law (NRS 630.047) it states: "This chapter shall not apply to: (a)...Christian Science healing...."

Both in the criminal code (NRS 200.5085) and under the child neglect and abuse reporting statutes (NRS 432.090) there are provisions very similar to the one that I am proposing today.

The amendment that I am proposing would be added to page 2 after line 6 and would read:

"A CHILD'S HEALTH OR WELFARE SHALL NOT BE CONSIDERED INJURED FOR THE SOLE REASON ALONE THAT HIS PARENT OR GUARDIAN SELECTS AND DEPENDS UPON NONMEDICAL REMEDIAL TREATMENT FOR SUCH CHILD, IN THE PRACTICE OF HIS RELIGIOUS BELIEFS, IF SUCH TREATMENT IS RECOGNIZED AND PERMITTED UNDER THE LAWS OF THIS STATE IN LIEU OF MEDICAL TREATMENT."

I would appreciate your support for this amendment.

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Darrell D. Lee