

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON HEALTH AND HUMAN SERVICES**

**Seventy-Third Session
May 9, 2005**

The Committee on Health and Human Services was called to order at 1:35 p.m., on Monday, May 9, 2005. Chairwoman Sheila Leslie presided in Room 3138 of the Legislative Building, Carson City, Nevada, and, via simultaneous videoconference, in Room 4401 of the Grant Sawyer State Office Building, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Ms. Sheila Leslie, Chairwoman
Ms. Kathy McClain, Vice Chairwoman
Mrs. Sharron Angle
Ms. Susan Gerhardt
Mr. Joe Hardy
Mr. William Horne
Mrs. Ellen Koivisto
Mr. Garn Mabey
Ms. Bonnie Parnell
Ms. Peggy Pierce
Ms. Valerie Weber

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Maurice Washington, Washoe County Senatorial District No. 2

STAFF MEMBERS PRESENT:

Barbara Dimmitt, Committee Policy Analyst
Julie Morrison, Committee Manager

OTHERS PRESENT:

Carlos Brandenburg, Ph.D., Director, Division of Mental Health and Developmental Services, Department of Human Resources, State of Nevada

Joe Cain, Legislative Advocate, representing Regional Emergency Medical Services Authority (REMSA) and Community Services Agency and Development Corporation

Norma Alaimo, Private Citizen, Las Vegas, Nevada

Michele McKee, Legislative Advocate, representing Community Services Agency and Development Corporation

Dorothy Nash Holmes, Mental Health Programs Administrator, Department of Corrections, State of Nevada

Dan Musgrove, Director of Intergovernmental Relations, Office of the County Manager, Clark County, Nevada

Sabra Smith-Newby, Legislative Advocate, representing the City of Las Vegas, Nevada

Buffy Dreiling, Legal Counsel, Nevada Association of Realtors

Alex Haartz, Administrator, Health Division, Department of Human Resources, State of Nevada

Mike Capello, Director, Department of Social Services, Washoe County, Nevada

Theresa Anderson, Deputy Administrator, Division of Child and Family Services, Department of Human Resources, State of Nevada

Chairwoman Leslie:

[Meeting called to order and roll called.] We have four bills, and hopefully we'll have time for a work session on three more bills today. We'd like to it get started with S.B. 21.

Senate Bill 21 (1st Reprint): Revises provisions governing individualized plans of services for clients of certain facilities that provide services to persons who are mentally ill or mentally retarded or have related conditions. (BDR 39-280)

Chairwoman Leslie:

This came out of the interim study of the Mental Health Commission that Senator Townsend chaired. I don't see him today. I was the vice chair of that commission. Mr. Horne served on it, as did Dr. Hardy, so we probably have

plenty of people here familiar with the concept. We'll turn it over to Dr. Brandenburg.

Carlos Brandenburg, Ph.D., Director, Division of Mental Health and Developmental Services, Department of Human Resources, State of Nevada:

Senate Bill 21 would change NRS [*Nevada Revised Statutes*] 433 to mandate that treatment plans for individuals with mental illness or developmental disabilities be developed with the active input and participation of the individuals served. Senate Bill 21, as you indicated, would implement the goal to President Bush's Freedom Mental Health Commission Report, as well as the Goal 2 of the Nevada Mental Health and Implementation Commission report. Goal 2 simply indicates and stipulates that mental health care needs to be consumer and family-driven.

Currently, unfortunately, individuals with serious mental illness typically have little input or influence over the care they receive. Passage of S.B. 21 would mandate greater consumer participation in treatment planning and would result in better treatment plans with a greater chance of success.

Chairwoman Leslie:

Was there any testimony from clients? I don't see any consumers here today that I'm familiar with, but are they aware?

Carlos Brandenburg:

They're aware and they provided testimony on the Senate side. I was unable to get them here today.

Chairwoman Leslie:

Okay. But they're generally in favor?

Carlos Brandenburg:

They're extremely supportive of this bill and they encourage its passage.

Chairwoman Leslie:

Does it have a fiscal note? It says, "Effect on State: yes."

Carlos Brandenburg:

There is no fiscal note.

Chairwoman Leslie:

Your agency would be the one that would have it.

Carlos Brandenburg:

It's basically saying that the consumers need to be active in the participation of the treatment plan. All too often, the psychologist, social worker, or psychiatrist does a treatment plan in a vacuum without the actual consumer being present. What this piece of legislation actually mandates is that the consumer needs to be sitting down, being an active participant in the treatment plan. So, there's no fiscal note.

Chairwoman Leslie:

How will you monitor that this is actually taking place with your caseworkers?

Carlos Brandenburg:

We end up doing surveys of the consumers, asking them if they actually were involved in their participation treatment plan, which was what we've been doing. Our surveys indicate that consumers really are not actively involved in the treatment planning.

Chairwoman Leslie:

I see the amendment from the Senate added if somebody is under age 18, then their parent or guardian...

Carlos Brandenburg:

That takes care of the provision that's under the Division of Child and Family Services (DCFS) and for us in the rural clinics, that the holder of the signature is really the parent or the guardian of anyone under the age of 18.

Chairwoman Leslie:

I don't have anyone else signed up to testify, but is there anyone else in the room who would like to testify for or against S.B. 21? I don't see any, so we'll close the hearing on S.B. 21.

ASSEMBLYMAN HARDY MOVED TO DO PASS SENATE BILL 21.

ASSEMBLYWOMAN McCLAIN SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblywoman Angle, Assemblyman Horne, and Assemblywoman Pierce were not present for the vote.)

Chairwoman Leslie:

We'll open the hearing on S.B. 280.

Senate Bill 280 (1st Reprint): Authorizes certain entities to transport allegedly mentally ill person to mental health facility or hospital for emergency admission. (BDR 39-1131)

Joe Cain, Legislative Advocate, representing Regional Emergency Medical Services Authority (REMSA) and Community Services Agency and Development Corporation:

This bill and NRS 433A.160 basically outline procedures for taking an alleged mentally ill person into custody. It further provides who may transport the alleged mentally ill person, and there are several categories of folks who are allowed to do that. You'll see there on page 2 of the bill, line 7, local law enforcement agency—subsection 2—a system for the non-emergency medical transportation of persons whose operation is authorized by the Transportation Services Authority (TSA).

Subsection 3 is the part where we're trying to add: "An entity that is exempt pursuant to NRS 706.745 from the provisions of 706.386 or 706.421..." Basically, those two NRS provisions relate to the Transportation Services Authority, and those are the sections that require you to have a CPCN [Certificate of Public Convenience and Necessity] registration and be regulated by the TSA.

We're requesting that an entity exempt from that regulation under NRS 706.745 be allowed to transport an alleged mentally ill person. The practical effect of this is that our client, REMSA, operates a non-emergent wheelchair service that transports disabled persons. We're asking that since that service is already exempt from TSA regulation under NRS 706, that they be listed here among those types of transporters who would be authorized to provide this type of transportation.

The relevant section in NRS 706.745 refers to a nonprofit carrier of elderly or disabled persons, and it says they're not required to obtain a CPCN to operate as a common motor carrier of such passengers only. Such a carrier is not exempt from inspection by the Authority to determine whether its vehicles and their operation are safe.

We're basically trying to get this additional category added to the list of folks who can transport. They're already exempt from TSA regulation. REMSA service—Med-Express, actually—has TSA licensure now, but since TSA regulation is intended for for-profit companies, they're looking at, in the future, moving away from that and not being regulated. They want to make sure they can continue to provide this type of service.

Chairwoman Leslie:

If there were to be a problem with this kind of transport, who would the consumer complain to, if not to the TSA?

Joe Cain:

They are still subject to TSA inspection for safety.

Chairwoman Leslie:

Would they be under this bill if we passed it? I thought you said they would no longer be regulated by the TSA.

Joe Cain:

Regarding the language that I read to you, folks who are exempt from TSA regulation are still subject to inspection by them. As far as any safety concerns and the TSA's ability to go in and take a look at the operation to make sure it's being operated in a safe fashion, that would still exist. This wouldn't require them to go through other things that come along with having TSA regulation.

Chairwoman Leslie:

Would the licensing body for REMSA provide licenses for this kind of transport, or there would be no licensing?

Joe Cain:

I would have to look into that. I don't know what their licensing procedures are. I would imagine that there's a local component now, in terms of the licenses that they're granted for their operations.

Chairwoman Leslie:

So, it operates now under REMSA?

Joe Cain:

It's an entity separate from REMSA, because REMSA, as an ambulance service, would fit under subsection 4, which is existing language that says an ambulance service clearly can provide this type of transportation. This is for an entity affiliated with them, but a separate entity that is a lesser level of service. The benefit of this is, if the circumstances don't require a full-blown ambulance transport, it's cheaper to do it under this.

Chairwoman Leslie:

If they're still affiliated with REMSA, would they fall under REMSA's license?

Joe Cain:

I don't think they would fall under REMSA. I don't want to say anything incorrect, but I think REMSA has a franchise with the county, and this is a separate thing because they're a separate entity. I would imagine that they have their own licensing they have to go through, as far as this distinct entity at the local level. I don't know how rigorous that is.

Chairwoman Leslie:

Maybe could you clarify that for us, before we vote on it. My only concern is making sure that somebody's looking at it beforehand. It doesn't necessarily have to be TSA; I think you made your case for that. Are there other questions from the Committee? We certainly can understand that if you don't need an ambulance, we don't want you using an ambulance.

Joe Cain:

I'll get that answer for you.

Norma Alaimo, Private Citizen, Las Vegas, Nevada:

First of all, I'd like to say there are too many people who could ambush a perfectly sane person and put them in a mental ward. It should only be a qualified doctor—no nurses, spouses, et cetera.

On July 22, 2004, my daughter Sherry Lynn called me three times to find out what time I would be home. I told her 12:30 p.m. I went to computer school in the morning and went to work at the blood bank in the afternoon. The next day, July 23, 2004, I arrived home at 12:30 p.m. After five minutes, Sherry Lynn called me from the living room. I did not notice that she had opened the security door. There were two police officers standing there. I asked them what they wanted. As I did so, Sherry Lynn pushed me through the security door with her right hand. The male police officer reached through the door, pulled me outside, spun me around and handcuffed me with my hands behind my back.

He dragged me kicking and screaming down my driveway. I hollered to Sherry, "Did you do this?" She hollered back, "No, mom, but I'll come get you." I had made the mistake of telling her and her new husband—who did not have a penny to his name—and two teenage children that my house was worth \$350,000. When she divorced her first husband she had two houses all paid for, alimony, and was on "easy street". After she married this low-life, she refinanced both houses and bought another house way above her means. She was in debt up to her ears. He kept calling me, saying that I should go to a senior citizens' home and they should pay all of my bills. I told them I had a 2000-square-foot home and I did not want to live in a senior citizens' home.

[Norma Alaimo, continued.] By the way, they live in Vacaville, California. Sherry comes out here once a year to visit and stays with her father, who lives down the block from me. We've been divorced 30 years and have had no contact since. Sherry's husband Jim called me, said to hurry up and change my mind, that I didn't have much time. I ignored that remark, and I should not have.

After I was put into the police car and buckled up, I was taken to UMC [University Medical Center of Southern Nevada], where a blood sample was taken. My blood pressure was taken, and it turned out to be 189. I could have had a heart attack. I was there for about three hours. The nurse asked me a bunch of questions pertaining to whether I wanted to harm myself. I told her no. I kept asking the female officer when they were going to take me home, and she said, "Soon." After we were in the hospital they put chains around my waist and my wrist, as they do to murderers. About 5:00 p.m. I was put back into the police car and driven to 6161 West Charleston, the psych ward. I asked why I was there and not brought back home, and they told me they were doing their duty. I looked at the file in the front seat of the police car and saw Sherry Lynn Alaimo Anderson's name on the file. I tried to read it, but the male police officer saw me and turned it over. I had gotten out of the seat belt by this time. I was a little upset.

I was in that rotten place for 13 days. Two of the nurses came over and told me I should not be there, that I should be out of there soon because I did not belong there. It still took 13 days. My file said "72-hour evaluation." This was against the law. I was held against my will as a prisoner. I was told there were diseases in there such as AIDS, et cetera, yet when I went to the bathroom there weren't any seat covers. When I asked the nurse, she told me they did not have any and could not order any. The shower was so filthy that I put a towel down on the floor and got out of there as quickly as I could. I would not put a stuffed animal in there, let alone a human being.

Chairwoman Leslie:

Can I stop you there? You're getting away from the purpose of the bill, which was the transport question. I can understand your concerns about the mental health institute, but we would take that up separately. This isn't the place or time for that. You were transported by a police car; is that correct?

Norma Alaimo:

Absolutely correct. And I was handcuffed with chains, as though I were a murderer.

Chairwoman Leslie:

Are there other questions for this witness regarding the transportation issue? I don't see any. Thank you so much for coming down today. We appreciate hearing from you. Is there anybody else who would like to offer testimony on this bill? I don't see anyone, so we'll close the hearing and we'll wait to hear back from Mr. Cain regarding the clarification of the licensing issue.

We'll take up the resolution and then Senator Washington's bill. I'll go ahead and open the hearing on S.J.R. 13.

Senate Joint Resolution 13: Urges Congress to preserve Community Services Block Grant program as independent federal program. (BDR R-1396)

Joe Cain, Legislative Advocate, representing Regional Emergency Medical Services Authority (REMSA) and Community Services Agency and Development Corporation:

With me is Michelle McKee, who is going to make brief comments about the resolution, which I think is largely self-explanatory. Just from reading it, it lays out what the case is.

Michele McKee, Legislative Advocate, representing Community Services Agency and Development Corporation:

I'm here today for our Executive Director who, due to a scheduling conflict, was unable to come. What we're asking with this resolution is to show the state's support for the Community Services Block Grant (CSBG). Through the Community Services Block Grant, we at Community Services Agency have been able for the past four years to use this federal money that has come in to support our efforts in regard to affordable housing development, the Head Start program, emergency services, and various social services for the community in Washoe County.

There are efforts at the federal level to cut the Community Services Block Grant, and take the grant itself and put it into a large block grant over in the Department of Commerce. If that happens, we will not be able to use the dollars the way we have in the past to provide these services in Washoe County. We're asking for your support to continue the Community Services Block Grant the way it has been for the past 40 years.

Chairwoman Leslie:

Will this make a difference to Washington? How will this resolution be used? It just goes to Congress?

Joe Cain:

Yes, I think it would be further evidence. I know there are other efforts similar to this in several other states. It would be evidence from the state grassroots level that this proposed cut in the budget would have a direct impact on real people and real programs that provide value and assistance to people. It hopefully could make a difference in what they decide to do.

Chairwoman Leslie:

Don't they always try and cut it, Michele?

Michele McKee:

Yes.

Chairwoman Leslie:

Do we always do a resolution like this?

Michele McKee:

No, we haven't. This year, though, rather than just cutting it, they're actually talking about moving it into another department. We feel that it will get lost, especially if it goes to the Department of Commerce, where the intent won't be quite the same.

Chairwoman Leslie:

There are three agencies, I believe, that get CSBG: your agency, EOB [Economic Opportunity Board] in Las Vegas, and the one in Hawthorne.

Michele McKee:

Those are the community action agencies that receive the funding. Actually, each county in the state receives an allocation, either through the community action agency or the county government structure.

Chairwoman Leslie:

Are there any other questions for Ms. McKee? I don't see any. Is there anyone else who would like to testify on this Senate resolution? We'll close the hearing.

ASSEMBLYMAN HARDY MOVED TO DO ADOPT
SENATE JOINT RESOLUTION 13.

ASSEMBLYWOMAN PARNELL SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblywoman Angle and
Assemblywoman Pierce were not present for the vote.)

Chairwoman Leslie:

Let's go ahead and go to our Work Session Document. Senate Bill 205, Committee, you can find behind Tab A ([Exhibit B](#)).

Senate Bill 205 (1st Reprint): Revises provisions governing criminal and civil liability for engaging in certain acts relating to cemeteries. (BDR 40-797)

Barbara Dimmitt, Committee Policy Analyst, Legislative Counsel Bureau:

This is the bill that increases the penalty for unlawfully or willfully removing objects from cemeteries and plots. The Committee received testimony in favor of this from a number of individuals, directors of various cemetery preservation organizations, and the Nevada State Historic Preservation Office. The Committee also gave indication of legislative intent to satisfy some concerns regarding whether the bill would adversely affect road building and similar types of governmental activities. There was no testimony in opposition, and we have not received any proposed amendments.

Assemblyman Horne:

My one concern is a Category D felony.

Chairwoman Leslie:

Category D felony; do you think that's too severe?

Assemblyman Horne:

It's still a felony, but it's mandatory probation.

Chairwoman Leslie:

What's the penalty for a D?

Assemblyman Horne:

Off my head, E felony is the lowest.

Chairwoman Leslie:

It's one to four, we're hearing. You would suggest E, rather than D? I tend to agree. Are there other comments from Committee members? Mrs. Koivisto?

Assemblywoman Koivisto:

It seems like an E is just a slap on the wrist.

Assemblyman Hardy:

I like Category E as well. I suspect there's some other way to get at it, but it's certainly more than a misdemeanor, which it is now. It would be an increase in penalty as it were. I would feel more comfortable with E.

Assemblyman Horne:

I know it seems because of the penalty involving Category E felony, it's still different than having a misdemeanor for subsequent offenses, regardless.

Chairwoman Leslie:

That's true. You lose the right to vote with a Category E?

Assemblyman Horne:

Yes.

Chairwoman Leslie:

It is significantly more than a misdemeanor. The Chair would entertain a motion.

ASSEMBLYMAN HORNE MOVED TO AMEND AND DO PASS
SENATE BILL 205, WITH AN AMENDMENT CHANGING
CATEGORY D FELONY TO CATEGORY E FELONY.

ASSEMBLYMAN HARDY SECONDED THE MOTION.

THE MOTION CARRIED, WITH ASSEMBLYWOMAN KOIVISTO
VOTING NO. (Assemblywoman Angle and Assemblywoman Pierce
were not present for the vote.)

Chairwoman Leslie:

[Opened the hearing on S.B. 282.] Here to present the bill to us is Senator Washington.

Senate Bill 282 (1st Reprint): Makes various changes concerning certain facilities for persons released from prison. (BDR 40-622)

Senator Maurice Washington, Washoe County Senatorial District No. 2:

You have before you this afternoon S.B. 282, which has been a bill that's been in the works for some period of time. It was kind of born out of the interim study committee dealing with rural justice and transitional housing. To give you

a brief history, the first time this issue was ever brought to our attention was under Senator O'Donnell and Senator O'Connell for the clustering of what were, at that time, called halfway houses in residential settings.

[Senator Washington, continued.] There was a group of halfway houses that were clustering in these residential settings, creating disturbances and problems, and they were unregulated. The first bill that came out dealt with the number of feet that these homes could be located one to another. Then we went from there. They really weren't regulated, per se, and the State was deciding whether or not they were going to regulate them, or whether or not the regulations should come from the local entities, the county, or the city councils.

Unfortunately, I got myself mixed up with a halfway house, due to the fact that I had a parishioner that was a resident of one of these houses. After getting involved in one of the houses—one of the companies—I found out that not only were they not regulated, but there were a lot of problems. We found out sometimes shady characters have a tendency to operate these homes, not for the intent of helping released offenders, but more so for their own ill-gotten gain. Because of that, we found out there are some residents who were very disturbed by not only the operation of these homes, but the maintenance and ongoing revolving door of activity that was surrounded with these homes.

We sought to create some type of regulation that would be amenable to the operators of the homes, as well as to the state and local municipalities. The local municipalities have the right to zone these homes in certain aspects, and the State was going to regulate them through the Health Division. What we found out, Madam Chair, is that it was kind of a catch-22. The State would not issue you a license until you were actually zoned by the county or the city, and the city would not give you a zoning permit unless you were licensed by the State. You had this ongoing finger-pointing that put you in the middle of a catch-22 between residents, the city council, county commissioners, and the State. It was an ongoing revolving door, so we sought to clarify that as well.

If you take a look at the bill itself, you will see that in Section 2 we define what a halfway house is, by defining it as transitional living for released offenders. If you work your way down to Section 3 of the bill, it deals with substance abuse and the certification given by the Health Division itself.

On page 6, which would actually be Section 7 of the bill, you have the facilities categorized in three different categories. The first category is a house that provides living arrangements or a living environment. The second category is facilities or houses that provide some arrangements for supportive services. The

third, arrangements or facilities, would be transitional living conditions for released offenders. The third category would be those houses that not only provide supportive services, but also provide arrangements for alcohol and drug abuse programs.

[Senator Washington, continued.] The third category of facilities in this matrix are houses that would actually be regulated and governed by BADA [Bureau of Alcohol and Drug Abuse] themselves. The first two would be governed and regulated by the Health Division. As you move through the bill, it describes facilities and their offenders, and I understand that we may have to amend Section 11 to help out the counties to be able to either deny or permit these houses to be located in certain areas. Without amending the bill, they would not have the option of either denying or granting permission. We'll let Dan [Musgrove] talk about that.

Other than that, that's the entire bill. I think it's a bill that's workable. The regulations would actually come through the Health Division at this point, and the licensure. It also permits an advisory committee to be put together of all the stakeholders. In this case, it would be P&P [Parole and Probation], Department of Corrections, the Health Division, and any nonprofit and private institutions that are in this field or industry.

Chairwoman Leslie:

Thank you, Senator. I think this is a bill that's been needed for a long time. I know it took a lot of work. It's not that simple, and I appreciate you working on it.

Let me ask a question. On Page 6, where you have the three different kinds of facilities, you said BADA is going to deal with the ones in (c), which provide treatment. That makes sense. There's a big article in the Reno paper about some people who got together and were living together in an alcohol-free environment. They claimed they really weren't a halfway house, and yet they functioned as a halfway house. Would that situation fall under (a) and (b), regulated through the Health Division?

Dorothy Nash Holmes, Mental Health Programs Administrator, Department of Corrections, State of Nevada:

I believe they would. This arose because there were so many definitions or generic understandings of what is called a halfway house. Apparently the Bureau of Licensure and Certification thought they weren't responsible for certain ones. Other people thought that the kind BADA regulated were halfway houses, but they were excluded by definition. I think everybody has the feeling

that some sort of standards must be in place, both for the operators and for the physical facility.

[Dorothy Nash Holmes, continued.] The Parole Board, the majority of the time, imposes a requirement that an individual come out of prison and go into some sort of transitional living facility. Right now we have everything from flop houses to very well-run programs, but the offenders coming out of prison get into anything. They will just pay the money up front and go right out the back door, and nobody is in charge of these places. Some regulations are definitely in order.

Chairwoman Leslie:

In the situation I described, who would decide whether it's a halfway house that falls under (a), or just people who decided to share a house?

Senator Washington:

I think, under any facilities that provide housing for living environment, it depends on the number of individuals living in the house. The county and the city council will tell you that if the number is less than 10, then it's just a living arrangement. Once it exceeds 10, it becomes a facility that has to be regulated by the State Health Division.

Chairwoman Leslie:

Is that in the bill anywhere?

Senator Washington:

No. It's in the zoning ordinance.

Chairwoman Leslie:

That would be handled by zoning?

Senator Washington:

Right.

Chairwoman Leslie:

I still think it's a little fuzzy, but okay. Dorothy, did you have more testimony you wanted to provide?

Dorothy Nash Holmes:

No, just that the Department of Corrections is in favor of this. We had a couple of meetings prior to this session. Parole and Probation was there; Maria Canfield from BADA was there, the Legislative Counsel Bureau was there, and everybody agreed that something to handle this issue is in order.

Assemblyman Hardy:

The proposed amendment talks about deleting Section 11 in its entirety. Is that what you understand too, Senator?

Senator Washington:

It's not the entire section, because the entire section is actually the current language in NRS 278.021. It's subsection 7, paragraph (a).

Chairwoman Leslie:

We'll have Dan Musgrove up in a minute.

Assemblywoman Parnell:

Senator, this is really amazing. On page 3 in the definition, in Section 6, the way I read this, it looks like currently, if you were reading information on these halfway houses, it would at this point in time say "for alcohol and drug abusers," and you're inserting the word "recovering." We always meant recovering. I remember when Assemblywoman Freeman had one of these, but thank you for identifying that and clarifying the language.

Senator Washington:

You're more than welcome. To clarify something that you said was a little fuzzy, let me explain to you how it works. If you're going to open up facilities as transitional housing for released offenders, under county and city ordinances, based on the Health Division and fire codes, if you have a number that's between 3 and less than 10, it's not considered a facility. It's considered residential housing. Once you exceed the number of 10—and it's the same way for group homes or elderly living arrangements—then you have to fall on the compliances, health ordinances, and fire ordinances. That's why we put the number at 10, to comport our licensure for these facilities.

Chairwoman Leslie:

The fuzzy part for me, Senator, is I don't see that number of 10 in the bill.

Senator Washington:

It's not in the bill.

Chairwoman Leslie:

Doesn't state law overrule county? [Senator Washington answered in the affirmative.] When I read 9, just by itself, and it says "facilities that only provide a housing and living environment" and I don't see any number—I'm just wondering who decides. My concern, and I understand why you had to do three different types, is how we distinguish between the flop house and the legitimate.

Senator Washington:

It is in the bill; it is current language.

Dorothy Nash Holmes:

It's on page 8, Section 11, paragraph (a): "Residential facility for groups in which 10 or fewer unrelated persons with disabilities..."

Chairwoman Leslie:

Okay, that helps. Come on up, Dan, since we're at Section 11, and explain your amendment. Committee, we've all been handed a short amendment ([Exhibit C](#)) from Mr. Musgrove, which does indeed say amend the bill as a whole by deleting Section 11.

Dan Musgrove, Director of Intergovernmental Relations, Office of the County Manager, Clark County, Nevada:

When we say that, it means any changes to Section 11 would no longer take place. Section 11 as is would remain in law and would be prevailing law as it is. We want to take out any references to the changes, which are those bold sections.

Chairwoman Leslie:

On page 10?

Dan Musgrove:

Exactly. I appreciate Senator Washington setting the stage as to what this Legislature has tried to do in the last three sessions, in terms of dealing with the clustering of group homes. Most homes that meet these definitions, prior to this bill—and we completely support the intention of what Senator Washington is doing—were protected under the Fair Housing Act (FHA). There wasn't much that local governments or the State could do, other than set up distance requirements. However, these halfway houses for released offenders don't have the same protections under the FHA. By giving that definition in Section 11, Chapter 278, you have just tied the hands of local government and put them on the same status as those FHA-protected categories. Therefore, local governments could not say no to any of these houses wanting to locate, because they would have the same protections.

We don't think that's in the best interest of local governments, being able to at least, with public input, restrict the placement of these homes. We fully support them. We think they're important for the community; however, we ought to have the ability, with public input, to decide where they go. That's our intent, taking out that definition in Chapter 278. Chapter 278 would remain the same.

All those protections that already exist would remain, and we hope that you consider our amendment.

Chairwoman Leslie:

So, that doesn't change state law at all?

Dan Musgrove:

Absolutely not. The only thing, essentially, would be the bold language that you see on page 10 of the bill—lines 10, 11, and 23. The remainder of Section 11 would remain the same. It just doesn't need to be in this bill.

Assemblyman Hardy:

I just wanted to make sure that line 23, in bold print, came out too. It sounds like it does.

Chairwoman Leslie:

We delete Section 11 as a whole; you're correct. That doesn't mean it goes away.

Dan Musgrove:

It would not be our intent to eliminate that.

Chairwoman Leslie:

I don't think it's a good idea to have all of these in one particular neighborhood or town, either. We have the fair housing law, but we don't want a ghetto of halfway houses.

Dan Musgrove:

That has always been our trouble. The previous legislatures have only been able to essentially put in distance requirements, so they can't be right next to each other. They can be between 600 and 1500 feet; they can't be within certain areas, like schools. By placing this facility for transitional living for released offenders in Chapter 278, it puts them on equal parity as these FHA-protected categories. I think that's problematic.

Chairwoman Leslie:

Senator Washington, you're fine with the amendment?

Senator Washington:

Madam Chair, I am fine with that.

Sabra Smith-Newby, Legislative Advocate, representing the City of Las Vegas, Nevada:

Originally I had signed in opposing this bill, but with the amendment that Mr. Musgrove proposed ([Exhibit C](#)) we would be in support of this bill.

Buffy Dreiling, Legal Counsel, Nevada Association of Realtors:

We want to express our appreciation to Senator Washington. He heard one of our concerns, which resulted in the amendment that was put in, which is now Section 9. I wanted to point out and explain how that got in here, because it's very much unrelated. Real estate and halfway houses are largely unrelated.

Our issue there was that other group homes, rightly or wrongly, have resulted in some stigma to a particular house that's being sold on a block. Under the Fair Housing Act, disclosure with regard to types of group homes for handicapped, elderly, or any of the other types of group homes that may cause such a stigma are protected under the Fair Housing Act, so a seller doesn't have to disclose those issues. Those issues do not arise as a focus of the transaction.

But as mentioned by Mr. Musgrove, issues with regard to a group home for released offenders would not be protected under the Fair Housing Act. We were concerned about the potential to sellers of a neighboring property having their property be stigmatized. We asked for the amendment to include these types of group homes in the stigmatized property statutes, resulting in that not having to be disclosed by a seller. Specifically, buyers can still investigate on their own to determine the suitability of a neighborhood. This brings it into the same type of category as other group homes. Senator Washington did include that amendment, and we appreciate that.

Vice Chairwoman McClain:

I have a question related to that. Can we exclude one class of people from the Fair Housing Act?

Buffy Dreiling:

The Fair Housing Act specifies particular protected groups in classes. Convicted felons or ex-prison inmates are not included in the Fair Housing Act. The Fair Housing Act does cover that you can't exclude or, as a real-estate licensee, you can't steer people away from a neighborhood because of someone of a particular age, gender, or race living there.

That has also been applied to group homes for the handicapped, elderly, or for recovering alcohol abusers. Those issues are not meant to be a part of a real estate transaction and something that a seller has to deal with in terms of a seller's real property disclosure.

[Buffy Dreiling, continued.] Because transitional housing for released offenders is not included in one of those protected classes, that's why we have this stigmatized property statute that addresses those types of issues.

Vice Chairwoman McClain:

That's what I needed to hear.

Assemblyman Hardy:

Are you for or against this bill?

Buffy Dreiling:

From a real estate perspective, we have a very narrow focus on it. From that regulatory aspect, on behalf of my client, we wouldn't be taking a position on that issue other than to see the benefits of having some regulation over those homes. We see that as a positive, as well as dealing with the other disclosure issues. We don't tend to get into issues of crime and criminals. When we appeared in the last House, no one could figure out why the realtors were there. That's how it ties to us. From the fact that they're regulated, you don't have groups and clusters of them, we certainly see that as a benefit to the real estate industry.

**Alex Haartz, Administrator, Health Division, Department of Human Resources,
State of Nevada:**

I need to put on the record that these licensure activities are self-funded within the Health Division by the Bureau of Licensure and Certification. The development of regulations and the licensing of these new transitional living facilities, like all facilities, will be self-funded. There will be a fee associated with licensure. The Health Division committed, in the Senate, that the regulations that are developed will be minimal. The working group of all the stakeholders Senator Washington mentioned is deemed appropriate, keeping in mind life safety code issues and making sure it's a safe environment. This is what the Health Division has expertise in.

Vice Chairwoman McClain:

Are there any questions for Mr. Haartz? Is there anyone else who wishes to testify on this bill? We'll close the hearing on S.B. 282. We'll go ahead and finish the work session.

Senate Bill 261 (1st Reprint): Includes snowboarders in provisions governing skier safety. (BDR 40-1155)

Barbara Dimmitt, Committee Policy Analyst, Legislative Counsel Bureau:

The second bill we're taking up is [S.B. 261](#), which you'll find under Tab B ([Exhibit D](#)). This is the bill that would extend to snowboarders the safety protections that are currently in existence for skiers. We heard testimony from the Incline Village General Improvement District in support of this legislation. There were questions by Committee members regarding how this bill related to the .08 blood alcohol content threshold that's under law for the Department of Motor Vehicles for driving motor vehicles and boats.

I did pull some statutes for you. I should preface this by saying that, from what I was able to determine and in talking to the Legal Division, it does not appear that Nevada has a definition of "intoxication," per se. Even in the motor vehicle statutes, there are several criteria connected by "or." It's quite loose there and would depend on what the district attorney or the police wanted to do, and what the courts would like to do.

However, the language in this bill corresponds to similar language regarding amusement rides, skateboarding parks, and in manipulating waterskis, surfboards, or similar devices. When you get into these statutes regarding the operation of various motorized vehicles, you get into the more specific blood alcohol content statutes. I'd be happy to go through any of this with you. The green page shows you the language that's similar to the language in this bill. The blue language is where it's more specific in motor vehicles.

Vice Chairwoman McClain:

In Legal's mind, this would probably work as well as the other statutes that refer to intoxication.

Barbara Dimmitt:

It's corresponding. They pulled it from the same statutes.

Assemblyman Hardy:

It sounds like you really don't have a definition of intoxication in the bill as presented. If we wanted that there, we would have to include that. When I look at the green sheet, I'm referencing NRS 455, 488, and, on the yellow sheet, 453, but the blue sheet, where it actually defines other substances, including alcohol, has NRS 484 and 488.

Barbara Dimmitt:

Yes, sir, those are the two chapters that deal with the operation of motor vehicles on the highways and the operation of boats. The other sections are the various recreational pursuits that are regulated.

Assemblyman Hardy:

How do we include a definition? If we're going to write a bill or law about intoxication, we ought to have a definition in there. Do we write "See NRS 484," so that includes it? I would feel more comfortable if we passed it with some definition attached.

Vice Chairwoman McClain:

Is it something you could do easily?

Barbara Dimmitt:

I checked with Leslie Hamner on this beforehand. I spent pretty much all Sunday looking for a definition. There's nothing under "intoxicated" in the law. I don't think it would be that easy, because Leslie said that even while driving under the influence of liquor, there's not an actual definition. There are several criteria there, interspersed by "or." Her understanding was that in Nevada, any alcohol could get you into trouble, and .08 is the federal definition that we had to have in there. I'm sure there would be a way to do it, but it would be the first time, probably.

Assemblyman Hardy:

If it were me, I would put in the concentration of alcohol—.08, either by blood or breath—under the blue sheet, 1(b); be able to reference that; and have it also include under the influence of a controlled substance.

Vice Chairwoman McClain:

Dr. Hardy, you'd like to see something in this bill that refers to those two statutes, NRS 484 and NRS 488. Barbara, could you try that and bring it back?

Barbara Dimmitt:

I'm sure the language is there. It's just a matter of what people want to do.

Assemblywoman Parnell:

It seems to me, going along with Dr. Hardy's concern, that we have a bigger issue. If we're making reference to "intoxicated"—I'm looking at the green sheet—we have it with skateboards and other provisions. Yet, we're saying we don't have a definition of "intoxication," but we're using it all throughout statute. We need a generic definition that all of these refer back to. It would even go beyond the bill before us, to track down wherever it's used and make sure we have a reference as to definition.

Barbara Dimmitt:

What the bill does is take existing law and apply it to snowboarders. The new provision deals with a sign saying, "Be careful; it's a misdemeanor to ski while you're under the influence of these substances."

Assemblyman Horne:

We're talking about intoxication as a definition, provided for in the Division of Motor Vehicles—.08. Is there another definition of intoxication throughout the statute—for instance, public intoxication? If there is a different definition, we would need to flesh out exactly what we were intending. There would need to be some consistency.

Barbara Dimmitt:

I did not ask for a formal determination by the Legal Division, but I could request that they comment on that.

Vice Chairwoman McClain:

That might work, because over the years, intent is from different laws and created definitions. We'll let her figure it out. We won't move on this. Let's let Ms. Dimmitt get us a definition or intent of a definition—some reasonable interpretation of what "intoxicated" means.

Assemblyman Mabey:

How many ski resorts will fit under this? I'd get rid of, under Section 18(d), lines 41 through 44 on page 4, and lines 1 and 2 on page 5. Then we wouldn't have to worry about all of these definitions.

Assemblyman Hardy:

On page 4 and 5, lines 41 through 44 and 1 through 2, if we get rid of the sign, is it still a misdemeanor to engage in skiing or snowboarding, or embarking on a chairlift, while intoxicated or under the influence? Does this bill actually make it a misdemeanor? Is it a misdemeanor, and this bill just does the sign?

Barbara Dimmitt:

The amendment was put in by the Senate to add the mention of a sign. The existing law—being illegal to ski while intoxicated—exists, and everywhere skiing and safety are mentioned in this bill, they added snowboarding. That's the only reason why that original section was even in there.

Assemblyman Hardy:

Then it is illegal; they are guilty of a misdemeanor if convicted of skiing or snowboarding under the influence, and all of those references we looked at,

snowboarding and skiing, marry those sections of NRS 455B or 455A. So I suspect there has to be what the definition of intoxication is in there.

Assemblyman Horne:

NRS 458.250 states that “the Legislature finds and declares that the handling of alcohol abusers within the criminal justice system is ineffective, whereas treating alcohol abusers...” The provisions of 458.250 through 458.280 are intended to provide definition of alcohol abuse. In NRS 458.260, it provides further in Section 2(b) on the exceptions: homicide resulting from driving, operating, or being in actual physical control of the vehicle or a vessel under power or sail, under the influence of intoxicating liquor or controlled substance or resulting from the other conduct prohibited by NRS, et cetera.

Assemblyman Hardy:

I don't know enough to say what are actually the words of intoxication as it applies to skiing; therefore, I don't know what it is as applies to snowboarding. I don't know what the words are for snowmobiling, and I understand where you're coming from. There's a difference between operating a vehicle that's big and heavy, but you also have the momentum factor of big and heavy coming down a slope at you, who may not be sober, and therefore is more prone to injury. I would love to see language that says there is or isn't a misdemeanor in skiing. I don't see it in our backup material.

Barbara Dimmitt:

If you were to look at NRS 455B—it's in the green sheet—that's word for word what it is in the statute. I apologize for not putting the full statute in, but in the Work Session Document ([Exhibit D](#)) I did indicate what existing statute 455A.170 says: “A skier shall not ski, or embark on a ski lift that is proceeding predominantly uphill, while intoxicated or under the influence of a controlled substance as defined in Chapter 453 of NRS, unless in accordance with a lawfully-issued prescription.” In a subsequent sentence, it says that a conviction of violation would be a misdemeanor. That is the existing law without this bill. This bill would say, “and snowboarders.”

Assemblyman Hardy:

In NRS 453A.170, or somewhere close that applies, is there a definition of a level of alcohol or controlled substance? If there is not a level, then how do we convict somebody of anything other than he was intoxicated, which is a nebulous term?

Barbara Dimmitt:

When I talked to the Legal Division, she said that would be a matter for the district attorneys and the courts. If you need more in terms of how intoxication

is handled legally in Nevada, her understanding was that any amount of alcohol puts you at risk of being intoxicated for almost any of these statutes, including motor vehicles.

Assemblyman Hardy:

That's why I would feel comfortable putting in .08 somewhere. If we're going to make the law, have something become the law. We know it affects your abilities. Then it doesn't become as contestable as just saying "intoxicating." That would be one little thing I would put in there somewhere.

Vice Chairwoman McClain:

It would be one teeny little thing you would have to put in 3 or 4 different statutes. You're not going to have it apply just to snowboarders and skiers, right?

Assemblyman Hardy:

This bill doesn't open up those other things. If the Committee had an appetite, I wouldn't mind expanding it. But in this bill, I would like something that defines "intoxicated" in the way of a laboratory report. Otherwise, I don't think we have any legs to ski on.

Vice Chairwoman McClain:

Then you're going to add a fiscal note?

Assemblyman Hardy:

The fiscal note would be in what way?

Vice Chairwoman McClain:

Law enforcement.

Assemblyman Hardy:

I think this is going to be the first Assembly bill of 2007.

Vice Chairwoman McClain:

I think it's a great idea. I think it needs to be defined, and since these kinds of statutes are getting popular, maybe that's something that needs to go to Judiciary to define it. Do we want to move this bill as it is, with the ambiguous term "intoxicated"? Do we need to amend it, or is it just "do pass" at this point?

Assemblywoman Koivisto:

The way I read this bill, all that it's doing is adding snowboarders to existing statute. We're not changing anything that has anything to do with anything else, except adding snowboarders.

Vice Chairwoman McClain:

Correct. I think in our discussion, we came full circle to that point.

ASSEMBLYWOMAN KOIVISTO MOVED TO DO PASS
SENATE BILL 261.

ASSEMBLYMAN HARDY SECONDED THE MOTION.

THE MOTION FAILED BY A VOICE VOTE.

* * * * *

ASSEMBLYWOMAN KOIVISTO MOVED TO AMEND AND DO PASS
SENATE BILL 261, WITH AN AMENDMENT ELIMINATING THE
SIGN REQUIREMENT.

ASSEMBLYMAN HARDY SECONDED THE MOTION.

THE MOTION CARRIED, WITH ASSEMBLYWOMAN PIERCE
VOTING NO.

Chairwoman Leslie:

We have one more on our work session today, S.B. 296.

Senate Bill 296 (1st Reprint): Revises provisions governing abuse or neglect of children. (BDR 38-372)

Barbara Dimmitt, Committee Policy Analyst, Legislative Counsel Bureau:

[Distributed [Exhibit E](#).] We heard testimony on this bill last Monday. Ms. [Jone] Bosworth, Administrator of the Division of Child and Family Services (DCFS), testified that the legislation corresponds with Nevada's statutes and two provisions of the federal Child Abuse Prevention and Treatment Act

(CAPTA). The new provisions relate primarily to infants affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure.

[Barbara Dimmitt, continued.] The Committee received no testimony in opposition. There was an amendment proposed by the Division of Child and Family Services that would have removed one reference to authorizing the release of information from the Central Registry to employers conducting background investigations as required by law. This morning, it was made known to staff that the Division would like to withdraw its proposed amendment. They did not think it was necessary. I have no further amendments to offer.

Chairwoman Leslie:

Just to be clear, Ms. Bosworth is withdrawing her amendment? Okay. Are there any comments from the Committee? Does everybody remember this bill? This is to bring us into compliance with CAPTA.

Assemblywoman Pierce:

I wasn't here for the discussion on this. This brings us into compliance?

Chairwoman Leslie:

The Child Abuse Prevention and Treatment Act is federal legislation. I think I asked at the hearing what the fiscal impact would be if we weren't in compliance. Was it \$1 million? Are there specific objections to any part of it, Ms. Pierce?

Assemblywoman Pierce:

If we pass this, and you go apply for a job, then you have to agree to be investigated by your prospective employer.

Mike Capello, Director, Department of Social Services, Washoe County, Nevada:

That provision would only apply to positions in which the employer wanted to have a check, if you were working with a vulnerable population. It's up to the employer to decide that they are employing in circumstances where, if they had a history of abuse or neglect, they might jeopardize the clientele that employer is serving.

The second provision would allow, with the authorization of the individual in question, for the employer to have the Central Registry checked. I think it's focused only when such employees are working with vulnerable populations.

Assemblywoman Pierce:

Okay, that makes me more comfortable. It's not just any job.

Chairwoman Leslie:

Is that specific provision part of the CAPTA federal requirement?

Mike Capello:

Yes, I believe it is. They're encouraging the sharing of information in those circumstances when an individual, who might have such a history, would represent a risk to those populations. They're pushing states to open up, in a limited way, that kind of information.

Chairwoman Leslie:

Who decides what is or isn't a vulnerable population? The other question: it goes away 10 years after the report? You don't stay on the registry forever.

**Theresa Anderson, Deputy Administrator, Division of Child and Family Services,
Department of Human Resources, State of Nevada:**

The other important piece to remember is that the employee has to sign an authorization to have the Registry checked.

Chairwoman Leslie:

What about the vulnerable population question?

Theresa Anderson:

The legislation is somewhat vague; it says "under certain circumstances." It's been our experience with the Registry that most employers are clear about what that constitutes. Child care facilities are a classic example. It's for those employers who are actually serving vulnerable populations, like children.

Chairwoman Leslie:

Children or seniors?

Theresa Anderson:

Seniors potentially, yes.

Assemblywoman McClain:

Did I miss this the day we heard this? What does prenatal drug exposure have to do with working with seniors?

Theresa Anderson:

That's a different part of the bill.

Assemblywoman McClain:

They're saying the new provisions relate primarily to infants born and affected by illegal substance abuse.

Theresa Anderson:

Individuals who may have had substantiated abuse and neglect may not be the type of employee you would want to hire, serving vulnerable populations, such as seniors, who may not be able to care for themselves and may be, for example, in nursing homes.

Assemblyman McClain:

It takes two to make a baby. How are we going to check the father's side, if there was something prenatal that affected a child? It's only going to be the mother under the gun here, right? She could have been clean.

Chairwoman Leslie:

It has to do with the mother.

Assemblywoman McClain:

A baby is born that has problems. That is going to go on the mother's record if they want to check it.

Chairwoman Leslie:

That's because it's the mother who used the substance that the baby has in its blood.

Assemblywoman McClain:

Not necessarily.

Assemblyman Hardy:

From a medical perspective, it takes nine months of gestation, usually. The father who has been using a drug is not in the blood system of the baby at that point. The baby goes through withdrawal, usually within hours after birth, because the mother has been using the drug, and she goes through withdrawal, perhaps not as rapidly as the child does. If the child has a problem, the medical people say, "Mom, do you have a problem using?" She says, "I do." Now they know what to do with the baby. It's prenatal use of drugs that would affect the baby immediately after birth.

Is there a way for the person who is the drug abuser to voluntarily say to someone, "I have been using or abusing, and my baby is going to have a problem"? Does this allow this person to get in or out of the Registry?

Mike Capello:

Essentially, this clarifies the reporting responsibility. If a mother were to disclose to her physician that she's been using at the time her baby's born, it would prompt a test. If that test was positive, a referral would be made to Child

Protective Services. There are a number of issues in that assessment that may or may not put her into the Central Registry. If the baby has a drug in its system, as evidenced by the test, that is prima facie evidence of neglect. What the practice has become is [to look at] the physical impairment or physical condition of the baby—to what degree, and perhaps withdrawal—and looking at other circumstances in the family, such as the mother's preparation for the baby and ability to care. It would ratchet out into a wider assessment of the safety and risk factors.

[Mike Capello, continued.] If the child is placed into custody based on the assessment, she will likely be in the Registry. If that assessment indicates that the test was positive, but there weren't other risk factors identified and the baby wasn't actually going through physical withdrawal, you could conceivably have a case that gets opened. It connects her to services, and she doesn't end up in the Registry. It becomes specific to the overall circumstances of what might be going on with respect to her role as a parent.

Assemblyman Hardy:

The mother says, "Doctor, I've been using X drug until today. My baby is going to have a problem." Doctors are then in a position to treat the baby, and there could be an argument from a legal standpoint that it is not neglect. They have warned the doctor that there is going to be a problem. That, in my own mind, would not be neglect. It wouldn't be wise, good, or healthy, but there is a warning that takes place in a voluntary way. Does this get at that particular issue?

Mike Capello:

I think it could mitigate, but disclosing ahead of time that they have been using an illegal substance, we're not in the process of determining guilt or innocence. We're looking at the set of circumstances, and at some point, the statute requires us to say if that entire set of circumstances rise to the legal definition of abuse or neglect, if it's yes, and we substantiate it, they go in the Registry. It's not clear-cut. Her response and overall parenting would be taken into consideration and could mitigate. Her honesty in confiding ahead of time might have an effect, but it's not a direct correlation.

Chairwoman Leslie:

Let me clarify that point. If a baby is born with methamphetamine in its blood, the doctor is a mandated reporter and must report?

Mike Capello:

Absolutely. The reporting standard is clear. What I'm talking about is the end of the investigation, when we reach a conclusion and say we're substantiating this

and they're going in the Central Registry. That's where there's totality. Absolutely up front, that's a mandatory report, and the changes make that more clear.

Chairwoman Leslie:

I think of all the families in Family Drug Court. Doctor, I've heard the "I'll never use again" line so often, and seen, in the majority of cases, that it's not true. They say that when they're about to have the baby, and 2 weeks or a month from then, it's often a different story. You would take all of that into consideration before you substantiated the mandated report.

Assemblyman Hardy:

If a person is using a legal drug, and they warn the doctor, the kid still goes through withdrawal. That's not neglect. How do I protect the person who voluntarily lets the people know? That's the concern I have. I know we'll do the right thing and take into account; I don't see the account in the law.

Theresa Anderson:

We had quite a bit of discussion before we got here with Bobbie Gang and Ms. [Lucille] Lusk about the issues you're bringing forward today. One of the things we have to remember about this bill is that it's really designed to get a plan of care for these women. One of the pieces that we added to the bill was a phrase that said the referral—I can't think of the exact language—talks about not leaning toward criminal prosecution. We actually negotiated that language with Bobbie, Lucille, and other folks concerned about the issues you're bringing forth.

Chairwoman Leslie:

It's at the bottom of page 5 and the top of page 6. It says, "A notification or referral to an agency which provides child welfare services pursuant to this subsection shall not be construed to require prosecution for any illegal action."

Assemblywoman Pierce:

Regarding the part that I was asking about before, could you tell me where in the bill it says the background check is only if you are ...

Chairwoman Leslie:

It's on page 2, Section 1, paragraph 3, subsection (b). "The person who is the subject of a background investigation by the employer provides written authorization for the release of this information."

Assemblywoman Pierce:

Where's the part about "vulnerable"?

Theresa Anderson:

It's not in the bill, I don't believe.

Chairwoman Leslie:

Where is it, then? Where do we come up with the "vulnerable" language?

Theresa Anderson:

I think we just said that in testimony.

Mike Capello:

I think the intent of CAPTA is clear. We're utilizing this confidential information in very limited circumstances, and I think we can talk from experience. Currently, employers can receive some information on individuals who sign an authorization, but it's limited. It's a matter of practice; it's not requiring anyone new to absolutely do it. The other piece of it is that the Division has the ability—because I believe it says the Division "may" release—to say it's not appropriate.

Chairwoman Leslie:

So, if a casino called up and said, "I want to run my cocktail waitress through this," you'd say, "No." Is that right?

Theresa Anderson:

That's correct.

Assemblyman Hardy:

Let's pretend that somebody got hired by the casino. Then they transferred to a day care facility in the casino.

Mike Capello:

Certainly, if they were working in the child care facility, that would require a work card, which would then trigger a criminal background check as well as a Central Registry check. In Washoe County, all child care providers who work in a facility do get a Central Registry check. Under that circumstance, if they transferred to work in the child care facility, they would be checked in the Central Registry.

Assemblyman Horne:

My concerns were along the lines of Ms. Pierce's. I remember in the testimony that this would apply to those applying for positions that dealt with vulnerable persons. It's not in the bill, and now they're saying, "Trust us; we wouldn't do it." I'd rather have it in the bill.

Chairwoman Leslie:

I think that's something we should add to the bill.

Assemblywoman Pierce:

The fact that it's voluntary is meaningless. When you get a job, they say, "You don't have to tell us this," but if you don't tell them, you don't get the job. I don't want to add one more thing to a job application that they're not supposed to ask, but they do anyway.

I had a job application when the Desert Inn closed. I'm 50, and they wanted to know what all of my brothers and sisters do. What difference does it make what my brothers and sisters, who live all over the country, do? If you don't answer those questions, no one ever looks at your application. I'm concerned about adding more to the process of getting a job.

Chairwoman Leslie:

I think the intent of this is to protect vulnerable populations. Is there something we could add that would make the Committee more comfortable?

Theresa Anderson:

I'm looking at Section 6. It says, "If the employer is required by law to conduct a background investigation of a person for employment..."

Assemblywoman Parnell:

I am really uncomfortable with this bill. It finally came to me exactly what is bothering me. My goal is, if there's a child abuse event, we need to get help for both the abuser, if possible, and of course make sure that child is placed in the appropriate setting and system. I would be the greatest supporter of anything that strengthened that. This bill goes too far when it talks about employment, records, background, ten years, et cetera. The intent of making sure our vulnerable population is cared for and receives the correct treatment is not what I see the gist of this bill being. For that reason, I don't care if we define "vulnerable." I will not be able to support it.

Chairwoman Leslie:

I guess I'm the Lone Ranger. I really don't have a problem with this bill.

Theresa Anderson:

We're looking at lines 26 and 27, Section 2.

Chairwoman Leslie:

We're on Page 2, Section 2, lines 26 and 27?

Theresa Anderson:

Correct. That's where I think your suggesting we amend, to add some language.

Chairwoman Leslie:

If the employer is required by law to conduct a background investigation for purposes of serving vulnerable populations—something like that? Ms. Pierce, let's put our comments on the mic.

Assemblywoman Pierce:

We're referencing this CAPTA.

Chairwoman Leslie:

In that section, so people will know, we might as well spell it out. I don't think it's a problem. Are vulnerable populations defined in CAPTA?

Assemblyman Hardy:

We have a bill that we acted on as the Assembly, where we defined "vulnerable populations." That is somewhere in the Senate.

Chairwoman Leslie:

Why don't we hold this bill; we're not on our last day yet. I think you've heard the Committee's concerns. Why don't we give you some time to look up what Doctor Hardy is remembering—a definition for "vulnerable population"—and see how that can be incorporated so it's more clear.

Assemblywoman Koivisto:

Did I not hear testimony that someone who is going to work in a child care facility already gets checked?

Mike Capello:

Some of this is already in existing statute; the provision that you remain in for ten years after the youngest child turns 18, that's existing statute. There are already measures by which specific employers who serve vulnerable populations can, with the employee's permission, have the history in the Central Registry for substantiation. I'm not exactly clear on the emphasis that CAPTA has to develop the specific language of the bill today.

Chairwoman Leslie:

What does this add? If we already have background checks and things built in, at least for the child care centers, are there populations that we're missing that this would cover?

Theresa Anderson:

That bill actually did two things. The new subsection allowed child welfare employees to access information in the Central Registry while in the performance of their official duties. If you'll recall, we talked about that. As a result of integration, the county is now having child welfare. The second thing it did was allow prospective employers, under certain conditions, to contact DCFS for information regarding substantiated reports of child abuse. That's what we're discussing.

Chairwoman Leslie:

We already know that child care centers—as an example of a vulnerable population—are already covered in statute elsewhere. If we deleted the part that's bothering people so much, who would it not cover that needs to be covered? You can think about that, since we're going to bring this bill back. If members have additional questions, let's make sure we get them to either of these two people. I think you're clear on the concerns.

Theresa Anderson:

It would be helpful to know, Dr. Hardy, if you recalled the bill that talked about "vulnerable populations."

Chairwoman Leslie:

We'll ask our Committee staff to help with that. Is there any other business to come before the Committee? If there's no other business, we're adjourned [at 3:15 p.m.].

RESPECTFULLY SUBMITTED:

Paul Partida
Transcribing Attaché

APPROVED BY:

Assemblywoman Sheila Leslie, Chairwoman

DATE: _____

EXHIBITS

Committee Name: Committee on Health and Human Services

Date: May 9, 2005

Time of Meeting: 1:35 p.m.

Bill	Exhibit	Witness / Agency	Description
N/A	A	*****	Agenda
S.B. 205	B	Barbara Dimmitt / LCB	Work Session Document
S.B. 282	C	Dan Musgrove, Clark County	Amendment to S.B. 282
S.B. 261	D	Barbara Dimmitt / LCB	Work Session Document
S.B. 296	E	Barbara Dimmitt / LCB	Work Session Document