MINUTES OF THE
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

Seventy-sixth Session
March 1, 2011

The Senate Committee on Health and Human Services was called to order by Chair Allison Copening at 3:34 p.m. on Tuesday, March 1, 2011, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Allison Copening, Chair
Senator Valerie Wiener, Vice Chair
Senator Sheila Leslie
Senator Ruben J. Kihuen
Senator Joseph (Joe) P. Hardy
Senator Ben Kieckhefer
Senator Greg Brower

GUEST LEGISLATORS PRESENT:

Senator David R. Parks, Clark County Senatorial District No. 7

STAFF MEMBERS PRESENT:

Marsheilah Lyons, Policy Analyst
Risa Lang, Counsel
Shauna Kirk, Committee Secretary

OTHERS PRESENT:

Kim Amato, Founder, Baby's Bounty
Dr. Andrew Eisen, Chair, Clark County Child Death Review Team
Gwendolyn Osburn, Community Health Nurse Manager, Southern Nevada Health District
Tara Phebus, M.A., Senior Research Analyst, Nevada Institute for Children's Research and Policy; Coordinator, Clark County Child Death Review Team

Tracey D. Green, M.D., State Health Officer, Health Division, Department of Health and Human Services
Joanne Malay, Health Program Manager 2, Maternal Child Health Services, Division of Child and Family Services, Department of Health and Human Services

CHAIR COPENING:
We will open the meeting of the Senate Committee on Health and Human Services with Senate Bill (S.B.) 172.

SENATE BILL 172: Establishes the Statewide Program for Public Education and the Prevention of Sudden Infant Death Syndrome. (BDR 40-826)

SENATOR DAVID R. PARKS (Clark County Senatorial District No. 7):
This bill creates a statewide program for public education and requires certain providers of health care and certain medical facilities to distribute information regarding sudden infant death syndrome (SIDS). There are several people in Las Vegas who will give you the details and background on this bill.

KIM AMATO (Founder, Baby's Bounty):
I would like to introduce Dr. Eisen of the Clark County Death Review Team; Ms. Osburn, Southern Nevada Health District; and Ms. Phebus, Nevada Institute for Children's Research and Policy.

DR. ANDREW EISEN (Chair, Clark County Child Death Review Team):
Sudden infant death syndrome is a tragic and mysterious condition. We do not understand a great deal about it. We do know we can substantially decrease the risk of SIDS by placing children in an appropriate sleeping environment. Some of the characteristics of an appropriate sleep environment include a firm mattress, a lack of soft bedding, an independent sleep space and placing the child on its back to sleep. In 2008, Nevada had five SIDS deaths. We could have decreased that risk if all of our families would have been educated. In 2008, we had 34 deaths statewide that were a consequence of asphyxia. Thirty-one of those deaths, 91 percent, were related to unsafe sleeping habits. Seventeen involved sleeping with an adult in which the adult would roll over onto a child in their sleep. In 13 of those deaths, the child was placed in an adult bed. In 10 circumstances, the child was caught up in a pillow or other soft bedding that led to their suffocation.

It is important to take this opportunity as a State to ensure all families of a newborn are given the information they need to protect their children from these kinds of risks. We have no interest in requiring parents to follow these guidelines. We are confident that with better education of families, we will see more children in appropriate sleep settings and lower the risks of these kinds of deaths. We strongly support this bill.

GWENDOLYN OSBURN (Community Health Nurse Manager, Southern Nevada Health District):
I have written testimony that I will read (Exhibit C).

TARA PHEBUS, M.A. (Senior Research Analyst, Nevada Institute for Children's Research and Policy; Coordinator, Clark County Child Death Review Team):
The Nevada Institute for Children's Research and Policy (NICRP) has created an annual report of the activities of the Child Death Review Team since 2006. From 2006 to 2009, there were 95 infant deaths related to an unsafe sleep environment. Forty-four of those cases were accidental deaths, and fifty-one of them were undetermined deaths. These deaths represent almost 20 percent of all infant deaths reviewed from 2006 to 2009. In the annual reports we have created, it continues to be a recommendation for education for prevention.

SENATOR HARDY:
What do you mean by accidental versus undetermined?

MS. PHEBUS:
I am referring to the manner of death as stated by the medical examiner on the death certificate. Some of these deaths are ruled to be accidental based on the evidence available at the time of investigation. If they cannot determine the exact manner of death, it is ruled undetermined.

SENATOR HARDY:
Are you saying that SIDS is included in accidental and the others are undetermined?

MS PHEBUS:
If a case is stated as SIDS, it is a natural cause of death and is absent of any circumstances that can be seen. The accidental and undetermined deaths are

the findings in those investigations where evidence of an unsafe sleep environment was found.

SENATOR HARDY:
How many of those were SIDS?

DR. EISEN:
The numbers that Ms. Phebus mentioned are separate from the SIDS deaths. The SIDS are in addition to those. I do not have the numbers for that span of time for SIDS. I do know that for 2008, there were five SIDS deaths. Those are above and beyond the numbers that I mentioned, which is 34 in 2008. Ms. Phebus talked about 90 plus over the 4-year span. Those are separate. There are deaths that were ruled accidental, deaths that were ruled undetermined and beyond that, there are the deaths ruled as natural and include SIDS.

SENATOR HARDY:
Many of the deaths were accidental, not associated with bedtime and separate and distinct from SIDS.

DR. EISEN:
Those are all related to sleeping issues. The SIDS are separated out. The medical examiner rules an infant death as SIDS if there are no circumstances to suggest there may be another cause. When there are circumstances that are clear but accidental, such as the child was caught up in a pillow or other bedding, those are ruled as accidental. Then there are those that are simply not clear. The medical examiner feels there might have been a cause other than SIDS. Those are the ones that fall into the category of undetermined. All of these numbers we are talking about are sleep-related deaths.

TRACEY D. GREEN, M.D. (State Health Officer, Health Division, Department of Health and Human Services):
In 2007, 262 infants died who were less than 1 year of age. In that year, unsafe sleep-related deaths were a total of 12, and SIDS deaths were a total of 12. In 2008, deaths of infants less than 1-year-old were 222, unsafe sleep-related deaths were 13, and 5 deaths were related to SIDS. In 2009, the total infant deaths were 218, of which unsafe sleep-related deaths were 8 and SIDS-related deaths were 3. I have prepared testimony that I will read (Exhibit D).

DR. EISEN:
The first 8 sections of the bill are definitions. Section 9 describes the details of the program that are required by the bill. It is a program to increase public knowledge and educate parents. It creates messages that include an identification of the risk factors and suggestions for reducing those risk factors to providers of health care and medical facilities caring for a newborn. The Health Division, Department of Health and Human Services, is directed to coordinate with public-health agencies at the federal, state and local levels and with nonprofit and community-based organizations in order to make this happen. Section 10 describes responsibilities of the health-care providers and the facilities to distribute this information to the parents of newborns and infants and retain a signed statement by the parent who received this information. Section 12 indicates that other funds can be obtained through grants, gifts and contributions to support this activity and comments about the accounting of those funds. There is a tremendous amount of information about what can be done to reduce these kinds of deaths. There is not a particularly onerous burden on the facilities other than a signature from the caregiver in the record that they have received this information. That only needs to be done once for each newborn or infant.

SENATOR KIECKHEFER:
I have several questions pertaining to section 10, "A provider of health care attending to or assisting ..." may be too broad. There could be several providers of health care who are attending to the mother at the moment of childbirth. My greater concern is in subsection 2 regarding the signed statement and keeping it on file. There are potential legal ramifications to doing that and could be something that could be used against someone in court if charges are brought forward related to a child's death. Is that the intent of this bill or something that would potentially be feasible?

DR. EISEN:
On the first point in terms of a provider, there is a definition there, but you make a strong argument of there being multiple providers who may be involved. In subsection 3, it says the providers of health care are only required to distribute that once. It could be modified to make clear it is not a responsibility of each and every provider to distribute this material for each infant, but that each family of an infant has to receive it one time. There may be an issue regarding the signature. The intent is for documentation that the material has been delivered. It could be softened to say this is an expectation and

requirement and put the responsibility on the health-care provider simply to document the materials were given, short of a signature. That is an expectation in the delivery of health care.

We have to document what we have done. When we give immunizations, we have a responsibility to provide information about the immunizations being given. There are forms on the federal level called vaccine information sheets. We note in the medical record the vaccine information sheet for immunizations were given to the family.

SENATOR WIENER:
What happens if they do not document this material?

DR. EISEN:
This is a general issue within the provision of health care. There are expectations of what information we will provide, what sections of an examination we will complete and what sections of a medical history we will take. The expectation, in general, is that if it is not documented somewhere, it is viewed as not having happened. If you fail to do something that is considered essential, there is potential liability involved. Part of that is intentional. This is important stuff, and we can reduce child deaths in Nevada by providing this information. The idea is to underscore how important and how valuable this information can be.

SENATOR HARDY:
If a pharmacy gives a flu vaccine to a mother who has a child less than one year of age, how does the pharmacist know the mother already had a flu vaccine and should have received the appropriate literature? The medical facility would be in the same position as the pharmacist and the school nurse or the walk-in clinic at Walmart. Sometimes a mother gives custody to a legal guardian and the provider of health care does not know the mother has given guardianship to someone and the health-care provider has to find the identity of the legal guardian. The construct is well-intentioned, but there are flaws.

SENATOR BROWER:
Section 10 sets up a potential malpractice action against medical providers. Is this unprecedented in statute? It seems the basis for medical-malpractice action is based upon negligence, but not a violation of statute.

SENATOR HARDY:
Realistically, if a provider, not just a physician, does something against statute, that person is liable. In subsection 2, we try to give informed consent. When we have a construct about a legal guardian receiving and understanding educational material, it can be problematic trying to ascertain if they really understood and retained the signed statement of the health-care record. That makes a double shot at liability, because not only did they not ask, but they did not keep a copy of the document. They did not know they had a child in some urgent-care settings. The rationale is good. Every provider has to do this, but the provider does not know if someone else did it. Every provider has to keep this signed statement once for each infant. We have to keep records until they are 26 years old.

SENATOR BROWER:
There may be some modifications done to make sure there are no unintended consequences.

CHAIR COPENING:
I am also concerned about liability.

SENATOR LESLIE:
I noticed the funds are currently paid through the federal grant. The last sentence in the fiscal note says, "If the Public Health Injury Surveillance and Prevention Grant is not renewed, the Division will have to request General Fund appropriation to continue the program."

JOANNE MALAY (Program Manager 2, Maternal Child Health Services, Division of Child and Family Services, Department of Health and Human Services):
It is a continuing grant that is competitive this year. It is unknown at this time if we will get that grant again this year.

SENATOR LESLIE:
What is the time frame on that?

MS. MALAY:
We have already submitted the application for the grant. We should know in April.

SENATOR LESLIE:
Would it begin in October?

MS. MALAY:
Correct.

SENATOR LESLIE:
Can the Division direct the money within that grant to whatever prevention areas they want, or do you need this bill for us to tell you that is how we want you to spend the funds?

MS. MALAY:
Although it falls within the purview of the Public Health Injury Surveillance and Prevention (PHISP) grant objectives, we did not write anything into the grant application about this bill specifically.

SENATOR LESLIE:
Could you direct some of the funds from that grant to this effort? Do you have authority to do that?

MS. MALAY:
No. Because it was not directly written into the grant, we would have to get permission.

SENATOR LESLIE:
Will you have to do that anyway?

MS. MALAY:
Correct.

SENATOR WIENER:
What is the life cycle of this grant?

MS. MALAY:
The PHISP grant is a five-year grant, and we just submitted one for the next five years.

SENATOR WIENER:
Could you amend this into your grant even though it would not be law until October?

MS. MALAY:
Once we get awarded for the grant, we can submit a revision to the Centers for Disease Control and Prevention to include some funds going directly to this. We would at least get approval prior to the bill becoming law.

SENATOR WIENER:
What is the time line of submitting a request for a revision?

MS. MALAY:
It can take up to 60 days for an answer. It could be longer.

SENATOR WIENER:
If you receive that revision and it is approved, would it fully fund what is in the bill?

MS. MALAY:
The amount we have requested and can receive in Nevada is $150,000. That would mean the total revision of the grant to fulfill the fiscal note of S.B. 172.

SENATOR WIENER:
Would this displace funds for your requested funds? What impact would this have on the costs of what you have already submitted?

MS. MALAY:
The PHISP grant serves all children in Nevada with prevention objectives. This would definitely direct the funds in a very different direction to a much smaller population than it currently serves. This grant serves car-seat education, helmets for children, bike safety and drowning initiatives, just to name a few.

SENATOR HARDY:
Does this also include “back to sleep” education?

MS MALAY:
There are statewide efforts along with the Maternal and Child Health Services program and the PHISP program that look at safe-sleep efforts. Although those are currently going on, it would redirect some of these funds.

SENATOR HARDY:
Is there anything beyond what we already do?

MS. MALAY:
It does request some tracking and monitoring purposes. It also requests comprehensive systems. We have those partners already in place, and the bill would formalize it.

SENATOR HARDY:
Currently, the tracking of who has been notified, who has signed on the paper and how long we kept the paper is not being tracked. Otherwise, we have the "back to sleep" program to teach parents how to avoid SIDS.

CHAIR COPENING:
Dr. Green, it seems this bill is designed to reach every newborn. Who are your clientele, how do you reach them? Are you reaching every newborn?

DR. GREEN:
The Cribs for Kids program is a large part of all the births in our State. Through that program, following completion of education, they are given an opportunity to receive a crib which would ensure a safe-sleep environment. There are a number of different programs where we focus on risk and prevention for children who are less than one year old. Looking at the numbers, we have seen a consistent decrease. This shows that we are having an impact.

MS. MALAY:
The Maternal and Child Health program along with the PHISP program does work with a lot of statewide agencies to disseminate the message on safe-sleep practices. The DCFS had the statewide Child Death Review Team put together a flyer that goes to every birthing hospital and is given to parents on safe-sleep practices. There is also information in a "pink packet" that started as the immunization packet that went to every new mother in every birthing hospital. The safe-sleep flyer is placed into that packet as well. The Maternal and Child

Health program also funds the health districts who screen for pregnant women and mothers who have given birth within the last year.

SENATOR PARKS:
We will review section 10 of the bill and may be able to offer some revision to the language there.

CHAIR COPENING:
We will close the hearing on S.B. 172 and adjourn the Senate Committee on Health and Human Services at 4:22 p.m.

RESPECTFULLY SUBMITTED:

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Shauna Kirk,
Committee Secretary

APPROVED BY:

_____
Senator Allison Copening, Chair

DATE:_____

EXHIBITS			
Bill	**Exhibit**	**Witness / Agency**	**Description**
	A	Agenda	Agenda
	B	Attendance Roster	Attendance Roster
S.B 172	C	Gwendolyn Osburn	Testimony
S.B. 172	D	Dr. Tracey Green	Testimony