MINUTES OF THE
LEGISLATIVE COMMITTEE ON CHILD WELFARE AND JUVENILE JUSTICE
(Senate Bill 3, 2009 Session)
July 19, 2010

The fifth meeting of the Legislative Committee on Child Welfare and Juvenile Justice (Senate Bill 3, 2009 Session) was held at 1:00 p.m. on July 19, 2010, at the Legislative Building, 401 South Carson Street, Room 3137, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, 555 East Washington Avenue, Room 4412, Las Vegas, Nevada. .

COMMITTEE MEMBERS PRESENT IN CARSON CITY:

Assemblywoman Sheila Leslie, Chair

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Senator Barbara Cegavske
Senator Allison Copening
Assemblyman John Hambrick
Assemblywoman April Mastroluca
Senator Valerie Wiener, Vice Chair

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT IN CARSON CITY:

Rex Goodman, Program Analyst, Fiscal Analysis Division
Donna Thomas, Secretary, Fiscal Analysis Division
Nicholas C. Anthony, Senior Principal Deputy Legislative Counsel

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT IN LAS VEGAS:

Sara L. Partida, Principal Deputy Legislative Counsel

EXHIBITS:

Exhibit A: Meeting Packet and Agenda
Exhibit B: Attendance Record
Exhibit C: Work Session Document
Exhibit D: New Language for NRS 127.2827, Washoe County District Attorney's Office on behalf of Judge Schumacher and Master Buffy Dreiling, Second Judicial District

I. ROLL CALL.

The meeting of the Legislative Committee on Child Welfare and Juvenile Justice was called to order at 1:05 p.m. The secretary called roll and all members were present.

II. OPENING REMARKS.

Chairwoman Leslie confirmed that the members had received a copy of the Work Session Document (Exhibit C). She explained that the work session format would be different in that testimony would not be heard on individual agenda items unless a member of the committee has a specific question. There would be a period of public comment at the beginning of the meeting.

Chairwoman Leslie said that the contents of the Work Session Document outlined the options that could be taken by the committee. The committee was allowed ten bill draft requests (BDR) to request a bill or a legislative resolution, send a letter to an agency, or prepare a statement of support or opposition.

III. PUBLIC COMMENT.

There was no public comment.

IV. WORK SESSION – DISCUSSION AND POSSIBLE ACTION ON RECOMMENDATIONS RELATING TO:

A. Release of Information Required for the Establishment of Minor Guardianships

Rex Goodman, Program Analyst, Legislative Counsel Bureau, Fiscal Analysis Division, referred to Recommendation 1 on page 1 of the Work Session Document (Exhibit C). He explained that the recommendation was presented by the Washoe County District Attorney's Office on behalf of Judge Deborah Schumacher, Second Judicial District, and other interested parties. He explained that the recommendation would draft legislation to permit child welfare agencies in this state to release a report relating to the abuse or neglect of a child if the report pertains to a hearing for guardianship pursuant to Chapter 159 of NRS. He explained that the legislation would allow child welfare agencies' reports relating to an investigation to be released to the courts in order to assist in the decision-making in guardianship proceedings. This would apply to regular guardianships; successor guardianships; the parent or parents of a child over whom a guardianship was being sought; and the child, if at least 14 years old. He noted that the identity of the person responsible for reporting the abuse or neglect of the child to the public agency must be kept confidential.

Chairwoman Leslie noted that there was recommended language on page 9 of the meeting packet (Exhibit A). She clarified that the committee will approve the concept for the recommendation, and Legislative Counsel Bureau (LCB) attorneys would come up with the precise language when preparing the bill drafts.

Mr. Goodman noted that if there was specific language that the committee wanted included in the bill draft requests, the committee could address that. Otherwise, the Legal Division staff would provide the language for the bills.

Senator Cegavske was concerned about that much information being given to so many different people. She observed that the language in the recommendation was broad.

Mr. Goodman said there was no specification that required the information to remain with the individuals, but everyone involved in the decision-making would have access to the information.

Chairwoman Leslie asked for clarification from the Washoe County District Attorney's Office. Jeff Martin, Deputy District Attorney, Washoe County District Attorney's Office, said he and Judge Schumacher discussed the proposed statutory change. Part of the issue was that when someone filed a petition for guardianship, current law requires that documentation from the Washoe County Department of Social Services be attached. Mr. Martin stated that it was preferred that only the court view the information, but the statute requires that the information be attached to the petition. His interpretation of the confidentiality provisions indicate that if the information was given to a third-party, or re-published, that would be in violation of state law.

Mr. Martin said the petitioner was required to attach the report to the initial guardianship petition. The report would be given to the parents, or whoever was served with the guardianship petition. He said if the information was only released to the court, the court could potentially make decisions based on information that only the court had access to.

Senator Cegavske was concerned that the information would be provided to the child whose guardianship was being decided. She suggested that the judge determine whether the child should have access to the report.

Mr. Martin said another mechanism, such as a sealed process, could be used to get the information to the court. In his discussions with Judge Schumacher, there was concern that the petitioner was required to provide the report under NRS 159, but was limited by confidentiality provisions of NRS 432B.290. Either the confidentiality provisions must be changed, or an alternative method to get the information to the court must be devised. If there was another mechanism by which the Washoe County Department of Social Services can provide the report that would be another potential solution.

Chairwoman Leslie asked Mr. Martin what was currently being done. Mr. Martin explained that Judge Schumacher has issued an administrative order that allows for the disclosure. There was a provision under NRS 432B.290 which allows the disclosure of information pursuant to the court order, before the court makes a finding that the information was necessary for the determination of an issue before the court.

Chairwoman Leslie asked if the report was given to each of the parties under the current administrative order. Mr. Martin said he believed that the Washoe County Department of Social Services provided a copy of the report for the purposes of filing a guardianship petition.

Chairwoman Leslie observed that the proposal would codify what was currently in practice under the administrative order, and Mr. Martin agreed. He explained that the person petitioning for guardianship was given the report to attach to the petition. After the petition was filed, a copy was provided to the parents when they were served with the petition for guardianship. This revision to NRS 432B.290 allowed the Washoe County Department of Social Services to provide the report to the guardian, allows the guardian to file it with the petition, and allows the court to serve it to the other potential parties.

Senator Cegavske referred to the proposed amendment, item e on page 9 of the meeting packet (Exhibit A), which stated that the report would be made available only to, "A court, for in camera inspection only, unless the court determines that public disclosure of the information was necessary for the determination of an issue before it."

Mr. Martin said the court would have to issue an exemption from confidentiality, but in order to file the guardianship petition, the documentation from the Washoe County Department of Social Services stating that the child has been subjected to abuse or neglect must be provided. He said the dilemma that the Washoe County Department of Social Services and the courts were trying to resolve was that a copy of the report must be attached to the actual guardianship petition.

Senator Cegavske asked if the language in item e could be used, rather than coming up with all new language. Mr. Martin said the issue was that the report was in a public file, and it was information that had to be disclosed to other parties, because the court could not make a decision in a guardianship case with information that was not provided to all of the parties to the action.

Senator Cegavske asked why all of the parties would need to be involved that were identified in items 2. a through d (page 10, Exhibit A).

Mr. Martin said that the person who intended to file a petition for appointment must provide a copy of the report, pursuant to statute (item 2. a); a proposed successor would also be required to provide a copy of the report pursuant to statute (item 2. b); the parents would be parties of the case, and they would have to be served with copies of the guardianship, and were required to have the same information that was available to the court (item 2. c); it would be appropriate to provide the child, if at least 14 years old, with the information as it pertains to him or her (item 2. d); the court was the driving force of the action, and would need the report to determine whether a guardianship was appropriate (item 2. e).

Chairwoman Leslie noted that the parties include the person petitioning for guardianship, the parents, the child, if appropriate, and the court. She did not think it would be inappropriate to provide the report to those people.

Kevin Schiller, Director, Washoe County Social Services, noted that that the proposed amendment states that, "an agency which provides child welfare services may disclose

information reasonably related to an investigation performed pursuant to NRS 159.044(2)(j), 159,052(I)(a), 159,0523(I)(a), or 159,0525(1)(a) ... " He said that the word "may" might give the agency discretion to determine whether it would be appropriate to release information. Mr. Schiller asked for some guidance about what information would be appropriate for a youth 14 years of age. He said his agency was usually the first contact before the petition was even filed. He suggested that the Washoe County Department of Social Services could assess the information and determine whether the parties would receive the report with the notice.

Mr. Martin did not disagree with allowing the agency discretion to determine whether the information would be revealed to a child 14 years or older. He said the main point of the proposed statutory change was to give the Washoe County Department of Social Services statutory ability to provide certain information to proposed guardians to file the petition of guardianship.

Senator Wiener noted that the proposed language includes "a person who intends to file." She thought that description was broad, and wondered if there was a timeline for filing such a petition.

Mr. Martin said that a person notifies the Washoe County Department of Social Services that they intend to file a petition for guardianship. The statute requires that certain documentation be attached to the petition, and there was no time limit on the guardianship petition. He noted that could be an area in which the agency could use its discretion. If an individual stated that they would petition for guardianship at a future date, that would not make any sense, and the Washoe County Department of Social Services could decide not to provide that person with confidential information. That information was being provided to the individual for the specific purpose of filing the guardianship petition.

Mr. Martin explained that the word "intended" was used because the petition for guardianship has not yet been filed when the individual approaches the Washoe County Department of Social Services for the documentation.

Chairwoman Leslie described the situation as a "Catch 22." The petitioner needed the documentation, and the Department of Social Services was prohibited to provide it because of confidentiality standards, and that was why the judge made the administrative order. Mr. Martin confirmed that was correct.

Senator Copening understood that the reports were provided to the courts from the Washoe County Department of Social Services. She asked if the courts were prohibited from revealing that information to the petitioners.

Mr. Martin explained that the Washoe County Department of Social Services does not provide the information directly to the court. The process was that a proposed guardian comes to the Washoe County Department of Social Services and requests the documentation that was required, pursuant to statute, to be attached to the

guardianship petition. He stated that the Washoe County Department of Social Services issues a letter fulfilling the statutory requirement as to whether or not the child has been abused or neglected. The letter was attached to the guardianship petition and filed with the court. The Washoe County Department of Social Services does not send the document directly to the court. The report was attached to the petition for guardianship, the court reviews the report, and the other parties also have an opportunity to review the document.

Chairwoman Leslie asked, if an administrative order was not in place, the Washoe County Department of Social Services could not provide the information. Mr. Martin concurred with Chairwoman Leslie.

Chairwoman Leslie asked whether the Clark County Department of Social Services was under a similar administrative order.

Teresa Lowry, Assistant District Attorney, Clark County, explained that there were two guardianship processes in *Nevada Revised Statutes*: Chapter 159 and Chapter 432B. She believed that Washoe County focused its guardianships through the Chapter 159 process, while Clark County focused its guardianships through the Chapter 432B process. She said Chapter 432B allowed guardianships to be established through child abuse and neglect proceedings, where the hearing officer or judge would have access to all of the documents. In Chapter 432B.290, the statute appears to allow release of that information to all of the people listed in the proposed legislation, with the exception of the proposed guardian. Ms. Lowry noted the subject of the report has access, as well as the parents and the child's attorney, and the only party to whom the report was not accessible under Chapter 432B.290 was the proposed guardian.

Mr. Martin explained that the processes for guardianship were different. Chapter 432B provides for a system of guardianship only for children who were already in the custody of the Department of Social Services, and the Department of Social Services was the petitioner. The process for guardianship under Chapter 159 only pertains to children who were not in the custody of the Department of Social Services.

Chairwoman Leslie asked if a person could pretend to be interested in filing a guardianship petition under Chapter 159 in order to "go fishing" for the information. Mr. Martin explained that whenever there was a release of information by the Department of Social Services, there was a concern that it could be misused. However, the statute requires that the report be filed with the petition. If the report was provided after the guardianship petition was filed, then the petition would be on record, but when the report was filed concurrently with the guardianship petition, there has to be a level of trust for the person requesting the information to file a petition for guardianship.

Chairwoman Leslie said maybe the requirement that the information has to be attached to the petition should be changed. Mr. Martin agreed that would work from his perspective. Chairwoman Leslie did not know if that would work for the court.

Mr. Schiller clarified that for the guardianships under Chapter 432B, the Department of Social Services was the frontrunner in terms of gathering information for the court. The Department of Social Services determined whether it was suitable to release the information to the potential petitioner. For example, a grandparent may seek guardianship, but a parent may be able to rehabilitate with "reasonable efforts." If the report was provided after the petition has been filed, the court would not have the information. Mr. Schiller stated the court wants the information sooner rather than later. He noted Chapter 159 specified that a governmental agency or medical doctor provide the information, so the responsibility defaulted to the Department of Social Services. The Department of Social Services was in the forefront of making an initial determination of whether there was an abuse and neglect issue under Chapter 432B. Second, there was a brief assessment of the circumstances. The assessment was not in depth, like a home study for a foster parent, but it was an outline to give a picture for the judiciary.

Senator Cegavske asked if Clark County and its judges had an issue with the statute. Chairwoman Leslie said it would be an issue for anyone in the state that wanted to file a petition for guardianship under Chapter 159.

Chairwoman Leslie recalled that Ms. Lowry testified that the Clark County Department of Social Services did not process many guardianships under Chapter 159, and that the parties listed in the proposed legislation already had access to the information. Chairwoman Leslie summed up the issue that there was one statute that required the report to be attached, and another statute that contradicts that. She stated that someone could not accomplish the requirements of one statute without breaking the law required by the other statute. Her only concern was that the information would be available to the proposed guardian, who was unknown. She said it would have to be fixed one way or the other, and that would wait until the 2011 Legislative Session. She reminded the members and the public that the committee was preparing recommendations, and not passing laws.

Senator Cegavske had a problem with the suggested language on the work session document. She suggested that the committee outline the issue and the solution, and allow LCB Legal Counsel to provide the language.

Chairwoman Leslie understood Senator Cegavske's concern, but she was more concerned about the contradiction in the two statutes. She asked Sara Partida, Principal Deputy Legislative Counsel, whether the release of confidential information to a proposed guardian who was unknown was a concern.

Ms. Partida said that would be a policy choice for the committee. She noted there were two different policy solutions to one problem. The committee could eliminate or amend the documentation requirement, or adopt the language that was suggested that allows the person who intends to file the petition to have access to the information for attachment to the petition.

Chairwoman Leslie noted that the problem remains that the statute was in conflict, and it was the job of the Legislature to remove the conflict.

Mr. Martin agreed that the issue was the conflict in the confidentiality laws. In his experience the court wanted more information, rather than less information. In terms of the non-Chapter 432B guardianships, the court wants information that the Department of Social Services has, because the more information they have, the better decision they could make.

Chairwoman Leslie asked if the Department of Social Services could forward the information to the court without giving it to the proposed guardian. Mr. Martin replied that could be done, but as a general rule, information that was received by the courts in regard to a case and was the basis of a court's decision that everyone must have the information. In some instances that was not a problem, for example, the parents were entitled to information regarding their child, the information would also have to be shared with the person who was filing for guardianship as well. He said the conflict in the statute was what the language was intended to fix.

Senator Wiener suggested the committee resolve the conflict with a minimalist approach.

Assemblywoman Mastroluca asked Senator Cegavske whether she agreed that items c, d and e (page 9, Exhibit A), were necessary. Assemblywoman Mastroluca suggested that if the agency provided the information to the parent, child and court, and upon discretion of the court, and to the parties listed under a and b, the court would decide to whom that information would be given so that it was relevant to the case.

Chairwoman Leslie said she did not think that would solve the conflict.

Mr. Martin pointed out that Assemblywoman Mastroluca noted that under Chapter 432B.290, items c, d and e (page 9, Exhibit A), were already allowed in statute. He noted that item d was not in statute, and children were not typically an exception, but there was an exception for the attorney of a child. He said that whether or not a child over 14 years of age should have access to this information was a policy choice, and giving the courts discretion to release the information to the proposed guardian would not decide the question of where the information should be released. For example, whether the information should be forwarded directly to the courts, and whether it should be sent to the parents. Mr. Martin said that in addition to the juvenile dependency cases, Judge Schumacher has the children's guardianships, and it would depend upon the level of comfort with the court. In his experience, Judge Schumacher does not like ex parte, rather, she likes for her decision to be based upon information that was accessible to all of the parties.

Chairwoman Leslie suggested that this decision be set aside. There was nothing that requires the committee to take action. She was still uncomfortable with the proposed guardian being someone who was fishing for information. She asked if the committee

members felt strongly about taking some sort of action. She said that she would be happy to work with Judge Schumacher to introduce something separately to address the conflict in statute during the 2011 Legislative Session.

Jon Sasser, Statewide Advocacy Coordinator, Washoe Legal Services, said one approach would be for the agency to provide the court with the information within 30 days of a petition for guardianship being filed. This would prevent a prospective guardian from fishing for information. The downside to that was that the information may be of value to the prospective guardian so that they will know what they were getting into before they take that chance.

Mr. Schiller agreed, and added Chapter 159 was amended because people were getting guardianships, and there was no connection to the Department of Social Services. A judge would issue an order for a social worker to testify at a guardianship hearing, and the social worker would conduct a "mini" assessment as a service to the court. Mr. Schiller stated that the intent of the law was to bring the agency and the court together, so that the court would have adequate information to make a decision.

Chairwoman Leslie asked if there had been any instances of people fishing for information since the since the administrative order was put in place. She asked how many of the Chapter 159 guardianships the agency processed. Mr. Schiller said he had not seen any instances of prospective guardians fishing for information, and on average the agency processes three to four per month since the process was initiated.

B. Establishment of a Kinship Guardianship Assistance Program

Mr. Goodman said this recommendation would authorize, but not require the child welfare agencies in the state to establish a kinship/guardianship assistance program as allowed by the Fostering Connections to Success and Increasing Adoptions Act of 2008. The recommendation was brought forward by the Division of Child and Family (DCFS) in a presentation before the committee. The optional program would allow kinship/guardianship assistance agreements to qualify for Title IV-E reimbursement in the same manner as a foster care agreement.

Mr. Goodman explained that to establish this program, statute would need to be amended to add language that was similar to NRS 127 or NRS 422A, which have the adoption assistance program or the current existing kinship care or relative assistance program that we have in the state. This would establish language in NRS 432B to allow this type of program. Mr. Goodman said the concern that needs to be addressed was that the program has an uncalculated fiscal impact. It was similar to a recommendation that was forwarded by the 2005 interim study on the Placement of Children in Foster Care to remove the age limit for the kinship care program that the Division of Welfare and Supportive Services (DWSS) administers. He indicated that the intent was to allow more relatives to become permanent guardians, and move them to permanency more quickly. That program had an age limit of 62 years or older, so it essentially applied to grandparents. Mr. Goodman stated that the committee decided to recommend the

removal of that age limit in S.B. 341 of the 2009 Legislative Session, which did not pass due to the DWSS fiscal note estimating that the cost would be approximately $8.0 million per year if all of the relative placement applied to enter the kinship care program. He noted that there was discussion, and the fiscal note was recalculated, and came down slightly. He said the fiscal impact has not yet been calculated, and there will have to be more review. By putting it in statute, the child welfare agencies would be able to establish this type of program, and not require them to implement it, but as the Legal Division has advised, by putting it in statute, the door was opened that it could be done. Mr. Goodman stated that there was confidence that the child welfare agencies would work with the Legislature before implementing a program like this if the fiscal impact was unknown. Mr. Goodman said the fiscal situation of the state may not allow for a new costly program that this could entail.

Senator Wiener noted that in page 4 of the meeting packet (Exhibit A), item 2 recommends to draft legislation to authorize, but not require, the child welfare agencies in the state to establish a kinship guardianship assistance program. She noted that in the explanatory language it says amend NRS to require in the state plan, but below the language was permissive, using the word, "may." She said if the committee were to require the state plan to address this be included, but implement it as funds were available, so that the framework would be in statute when the money was available.

Diane Comeaux, Administrator, DCFS, noted that the children who were eligible for this particular program were already in the custody of the division, and already in a relative placement or foster home placement, and the division was already making foster care placement payments for these kids. Children must be in a licensed home, so if a relative was providing care for the children, they had to have been licensed. Children must have been in the home for a minimum of six months, and their plan cannot be return to the parent. These children were now just staying in the foster care system, the grandparents do not necessarily want to help with termination of parental rights against their own children, which allowed the division to move kids toward permanency more quickly. Ms. Comeaux noted that instead of lingering in foster care, children can go into a guardianship placement and the fiscal impact for the placement costs was minimal, because the division was already making those payments. She said the division would simply negotiate an agreement in a similar manner to an adoption subsidy. The cost comes in as an offer was made to help with court costs to finalize the guardianship. Long term, Ms. Comeaux noted that once the subsidy was finalized, case management services were no longer necessary, so there would be some savings in case management, and some minimal one-time costs in order to move those children into that placement.

Assemblywoman Leslie asked if that meant there would be no major fiscal note for this recommendation. Ms. Comeaux said that no fiscal impact would be built into the budget and some costs may be shifted. She said there would be fewer caseworkers, but there would be one-time costs. Unlike the other guardianship programs that had no specific requirements other than someone had to be over the age of 62, this guardianship would require that the child already be in a licensed foster home, and the requirement that the

child was receiving continuing services. In addition, if the goal for the child was to return to the parent, then federal law required that the division could not move forward with the guardianship.

Mr. Goodman clarified that a note on the fiscal impact was uncertain at this point. If the recommendation went forward as a bill draft, a request for a fiscal note would be submitted and the costs would be analyzed and a permanent cost would be attached to the bill.

Chairwoman Leslie said that information was very helpful. She reminded the members that the committee was a policy committee rather than a money committee.

Senator Wiener asked Ms. Comeaux if the change would be cost-neutral. Chairwoman Leslie noted that Ms. Comeaux nodded to indicate her agreement. Chairwoman Leslie said she was more comfortable after hearing the testimony from Ms. Comeaux.

Senator Cegavske noted that whenever there was a new program, there were administration costs such as salary and benefits. She was concerned that there would be a fiscal impact, and with the state's economy, it would be hard to add something new. Senator Cegavske said that the state did not have enough funds to cover even minimal costs.

Chairwoman Leslie understood that the change might end up saving money for the state because kids would be moved to permanency faster, so the state would end up paying less money.

Ms. Comeaux said current staff were providing case management services and the case management services for these children would cease. There would be some costs to administering the program, similar to what was done with adoption subsidy agreements. She noted there would be some increase in the number of staff that negotiate and renew those agreements, and an increase in the staff that negotiate and renew the agreements; however, there would be a decrease in the number of staff that provide case management services. The child welfare agencies believe the change would be cost-neutral, but do not believe the savings would be significant. There would be an improvement in the outcome for DCFS review because the division has a certain amount of time to move children toward permanency.

Chairwoman Leslie noted that the state might save some money by not getting fined by the federal government for not meeting the goals. Ms. Comeaux agreed.

> SENATOR COPENING MOVED TO SUBMIT A BILL DRAFT REQUEST ON THE ESTABLISHMENT OF THE KINSHIP GUARDIAN ASSISTANCE PROGRAM. THE MOTION WAS SECONDED BY SENATOR WIENER.

Senator Cegavske said she would not support the motion because the fiscal impact information was not complete. She did not think the testimony provided was enough to

indicate there would be a savings and therefore was not supportive of the motion at this time.

> THE MOTION PASSED. SENATOR CEGAVSKE AND ASSEMBLYMAN HAMBRICK VOTED IN OPPOSITION, ALL OTHER MEMBERS VOTED IN FAVOR.

C. Residency Requirements for Finalization of Out-of-State Adoptions

Mr. Goodman said the recommendation to draft legislation to change the residency requirements for finalization of out-of-state adoptions was put forward by the Washoe County Department of Social Services. This recommendation would amend NRS 127, Section 60 to allow courts in Nevada to finalize adoptions of children in their custody without regard to the state of residence of the proposed adopting parents, assuming that the child welfare agency in the other state was in support of the adoption. This would allow proposed adopting parents to attend adoption petition hearings in person, or by telephone if they were out-of-state.

Mr. Goodman said he had received some clarification from the Washoe County Department of Social Services on the current situation. He explained that Nevada children were in custody of Nevada child welfare agencies and were in placement out-of-state with relatives or other guardians, and those relatives or guardians want to adopt the child, but due to the current statute, the Nevada child welfare agency was waiting for the other state's courts to finalize the adoptions. In order to move toward permanency more quickly, and improve on Nevada's federal findings on permanency, this recommendation would propose to allow Nevada courts to finalize those adoptions.

Mr. Goodman noted that California finalized adoptions of California children who were in Nevada, with Nevada adoptive parents through California courts. The process was similar in Oregon and some other states and it was assumed that this was acceptable by federal standards.

Chairwoman Leslie said this was an issue of efficiency and it would be a good idea for Nevada to participate in the same process as the surrounding states. She noted the justification for the request from Washoe County was on page 18 of the meeting packet (Exhibit A).

Senator Cegavske asked if allowing the adoptive parent to participate in person or by telephone was a new practice. She asked if the child welfare agency in the other state verified that the person participating in the hearing by telephone was the adoptive parent.

Mr. Schiller explained that an agency representative from the other state would be in attendance at the location of the adoptive parent in the other state.

SENATOR CEGAVSKE MOVED TO SUBMIT A BILL DRAFT REQUEST TO CHANGE THE RESIDENCY REQUIREMENTS FOR FINALIZATION OF OUT-OF-STATE ADOPTIONS. THE MOTION WAS SECONDED BY SENATOR WIENER.

THE MOTION PASSED UNANIMOUSLY.

D. Disaster Response Relating to Child Welfare Agencies and Providers

Mr. Goodman said the Washoe County Department of Social Services put forth a series of recommendations to strengthen planning in the area of disaster response relating to child welfare agencies in the state and providers of child welfare services. Mr. Goodman recalled that the committee heard a presentation by Save the Children and had some discussion at that point. The recommendations were included on page 17 of the meeting packet (Exhibit A).

Mr. Goodman referred to item 4A on the Work Session Document (Exhibit C) which would require DCFS to develop a plan for the care of children during disasters in circumstances in which the local child welfare agency was unable to respond to the needs of children.

Chairwoman Leslie thought a requirement for a statewide plan should be put into statute. She noted that the committee had previously heard testimony that the local agencies had plans, but there was no statewide plan. She asked whether the juvenile justice agencies should be included in the plan as well. Chairwoman Leslie said if a juvenile justice institution center was involved in a disaster, and there were children in need of care, then child welfare would take over and her concern was that some of the juvenile justice agencies did not have adequate plans. She asked the committee to consider putting in statute that DCFS had to have a statewide plan for the juvenile justice facilities as well.

Senator Cegavske asked if DCFS currently had a plan in place. Chairwoman Leslie understood that the counties had individual disaster recovery plans, but there was no mandated plan that brought the county plans together if the counties were overwhelmed.

Ms. Comeaux agreed and said the counties and the state had disaster recovery plans. However, there was no plan in the event the counties cannot execute their disaster recovery plan, and how the state would step in and take over.

Senator Cegavske said she was frustrated that there had been no plan in place, and no plan would be put into place unless the requirement was put into statute.

Ms. Comeaux explained that each county has a disaster recovery plan, which was required by the federal government. This recommendation was for a requirement for a statewide plan if the disaster was so great that the counties cannot execute their plans.

Senator Cegavske said she understood that. She asked if the state had a central plan in the event that one of the 17 counties could not handle a disaster. Ms. Comeaux said there was currently no statewide plans in place. Senator Cegavske asked whether the requirement had to be in statute for the plan to be devised.

Chairwoman Leslie thought that was oversimplifying of the issue. She noted that the State Emergency Management Division had a plan for when counties needed help during a disaster. This recommendation would address the needs of child welfare and juvenile justice agencies in detail.

Ms. Comeaux agreed that the State Emergency Management Division had a plan in place, but it was not specific to child welfare, and does not take into consideration the counties' existing plans.

Chairwoman Leslie said through her experience on the National Commission on Children and Disasters, this was very typical. Rather than recognizing that children were 25 percent of the population, they were considered an afterthought. She agreed with Save the Children that there should be a statewide focus on the children that the state was responsible for in the child welfare system and the juvenile justice system, so that if the state were to experience a major disaster, and a county was overwhelmed, particularly in the rural areas. She wanted the plan to outline how those situations would be addressed. For example, whether Washoe County or Clark County assist the rural counties. Chairwoman Leslie said if language regarding disaster response planning was put into statute, then people had to think about it, because it was easy to put off planning for a disaster when they do not happen very often. The purpose for suggesting to strengthen planing in the area of disaster response was to force the planning to happen in case a major disaster strikes one of Nevada's counties.

Senator Cegavske agreed with Chairwoman Leslie, but was concerned that this issue has been brought up and discussed before. If she were the head of an agency, she would want to be proactive and have something in place. Senator Cegavske was frustrated that this was not already done, and that the committee had to suggest that it be put into statute.

Senator Wiener recalled that the Commission on School Safety and Juvenile Violence (1999-2000) came up with a safety plan that was required in every school. She informed the committee that she has put forth a BDR to amend that because it was so narrowly focused to incidents of violence in schools, and did not include disasters of other kinds. She would work on expanding the requirements of the safety plan in schools during the 2011 Legislative Session. Chairwoman Leslie said she was glad to hear that.

SENATOR WIENER MOVED TO SUBMIT A BILL DRAFT REQUEST TO REQUIRE A STATEWIDE PLAN FOR DISASTER RESPONSE FOR CHILDREN IN THE CUSTODY OF CHILD WELFARE OR JUVENILE JUSTICE AGENCIES IN THE STATE. THE MOTION WAS SECONDED BY SENATOR COPENING.

THE MOTION PASSED UNANIMOUSLY.

Referring to item 4B on page 3 of the Work Session Document (Exhibit C), a summary of the plan must be submitted to the Legislative Committee on Child Welfare and Juvenile Justice, Mr. Goodman said that this recommendation was very simple, and could be included in the same legislation requiring a statewide plan for a disaster response for children in the custody of child welfare or juvenile justice agencies in the state. The recommendation would require that a summary of the plan must be submitted to the Legislative Committee on Child Welfare and Juvenile Justice for review at a future date, and made available on the Internet website of the division.

Senator Wiener suggested that the plan also be submitted for review to the appropriate Legislative Committee in order to maintain continuity.

Chairwoman Leslie asked Senator Wiener which committees would receive the plan. Senator Wiener agreed that it would not be easy to name the Legislative Committee that would review the plan. She withdrew her comment.

Senator Wiener asked if all of the recommendations for this subject would be included in the BDR. Chairwoman Leslie would prefer to leave that to the bill drafters. She noted that the committee would have plenty of BDRs to put forward its recommendations.

SENATOR WIENER MOVED TO RECOMMEND THE REQUIREMENT THAT THE STATEWIDE PLAN FOR DISASTER RESPONSE FOR CHILDREN IN THE CUSTODY OF CHILD WELFARE OR JUVENILE JUSTICE AGENCIES IN THE STATE BE SUBMITTED TO THE LEGISLATIVE COMMITTEE ON CHILD WELFARE AND JUVENILE JUSTICE FOR REVIEW.

THE MOTION WAS SECONDED BY ASSEMBLYMAN HAMBRICK.

THE MOTION PASSED UNANIMOUSLY.

Mr. Goodman noted that recommendation 4C (page 3, Exhibit C) would require DCFS to adopt regulations relating to planning for children during disasters, which prescribe the elements of a disaster plan that must be in place for a foster home which provides care to a child in this state. Mr. Goodman said NAC 432A.280 prescribes requirements for child care facilities, was a comparable example. The recommendation would require

DCFS to put administrative code in place to address this for the foster homes, similar to what was in place for child care facilities.

Chairwoman Leslie said it was essential that the foster homes were well protected, and had thought out what to do with the children in the case of the state disaster. She noted that foster care parents can give input in the public hearings to make sure that they were not required to do too many things, but that there was an essential disaster framework in place.

Senator Cegavske noted that NAC 432A.280 prescribes requirements for child care facilities and wondered if that did not include children in foster care.

Chairwoman Leslie explained that NAC requirements were in place requiring child care facilities to have emergency disaster plans for every child, including children who may be foster children. This recommendation was to put in place a similar requirement for foster homes to have a written disaster plan. For example, if there was an earthquake in Reno, how would the foster parent contact the child welfare agency to let them know where they were.

Senator Cegavske asked if it would be up to each county to make sure that the foster home has an emergency plan. She wondered when a new foster home was licensed, would regulations require an emergency plan, and would the agency assist those foster parents in the implementation of an emergency plan.

Chairwoman Leslie understood that the state would establish a framework through the regulatory process. After that process, the foster care licensing agencies would have to make sure the foster homes met the requirement, including aiding foster parents in understanding how to meet the requirement.

Senator Cegavske asked if there would be a cost to implement the new requirement for the foster home or the state. Chairwoman Leslie did not expect for the foster parents to provide the kind of evacuation plan that would be put together by a school. She was concerned that if there was nothing written down, communication issues would be very problematic during a disaster. She wanted for the foster homes to know who should be contacted in the case of an emergency and she expected the emergency plan to be very basic.

Mr. Schiller said that Washoe County has already built disaster planning contact information into its practice related to a dialog in terms of what happens in an emergency. He said during the last two floods in Washoe County there were issues at the congregate care facility, which was Kids Kottage and foster homes, which were in a similar circumstance. The disaster plan would not create much more work, rather it would be a matter of practice and training. Mr. Schiller did not think it would be a huge undertaking, particularly for the foster parents. He said the contracts would include who the foster parents would reach out to in an emergency, and how to maintain their location.

Senator Cegavske said special needs children who were in beds and wheelchairs were the most fragile. She asked whether the special needs children were included in the existing emergency provisions.

Mr. Schiller said that was correct. He emphasized, that if there was a child in a foster home who had very high needs, such as a breathing apparatus, the agency's disaster plan required that the children with the highest needs were the first priority in the initial reaction. He indicated that the priorities were part of the federal Equal Employment Opportunity Commission (EEOC) regulations.

> SENATOR WIENER MOVED TO RECOMMEND THAT THE DIVISION OF CHILD AND FAMILY SERVICES REQUIRE FOSTER HOMES IN THE STATE TO HAVE A EMERGENCY PLAN IN PLACE. THE MOTION WAS SECONDED BY ASSEMBLYMAN HAMBRICK.
>
> THE MOTION PASSED UNANIMOUSLY.

Mr. Goodman noted that Work Session Document item 4D (page 3, Exhibit C) required child welfare agencies to incorporate in contracts with child welfare service providers language regarding disaster response planning, including, without limitation, mandatory and emergency evacuations, disaster planning training for facility personnel, location and tracking of children, protection or recovery of records, provisions of regular and crisis response services to children during and after a disaster, communication with the division, and other post-disaster activities. He noted that the original recommendation from the county was to reference a document by the federal Administration on Children and Families, but when staff reviewed the document, they found that it had been revised once in the last ten years. Rather than reference that document by name, the points that were covered in that document would be put into statute to be included in the contracts.

Chairwoman Leslie asked who was included under the term "child welfare service providers." Mr. Goodman said that would include private as well as state facilities, including private nonprofit facilities that provide child welfare services, licensing organizations that assist the agencies in finding, recruiting and licensing foster parents or providing congregate care. In response to a question from Chairwoman Leslie, Mr. Goodman said he believed the term included anyone contracted by the state to take care of children who were the care of the state or the county.

Chairwoman Leslie noted that the State of Iowa lost most of its child welfare records in a flood, because they were stored in a basement. She explained if the state had backed up the records on a computer, or had stored them in a different place, they might not have lost the records, which was the kind of situation that could be prevented by the recommendation.

Senator Cegavske asked for more information as to which contractors would be included. For example, she asked if the contractors that delivered food would be included.

Chairwoman Leslie agreed that the language was nebulous. She did not think it would include contractors who delivered food. She recommended that better language be developed to better describe the contractors included under the term, “child welfare service providers.”

Mr. Schiller agreed that the language was too broad. He thought it was parallel to NRS 424, which was the licensure for foster care. He suggested that the language be narrowed to include those entities that were providing direct residential care or foster care to children in the custody of the department.

Ms. Comeaux noted that whenever a child was placed in care by DCFS, it was to a licensed home, and those homes would already be covered under item 4C.

Chairwoman Leslie said there was one standard for a foster home, but the recommendation for item 4C targeted residential treatment homes and institutions.

Ms. Comeaux said residential treatment homes were licensed as well. In response to a question from Chairwoman Leslie, Ms. Comeaux thought these child welfare service providers were already covered under item 4C.

Chairwoman Leslie thought that item 4D required more than item 4C, but it could be argued that no matter where a child was placed, they should have the same emergency protection.

Mr. Schiller asked if the intent was to target child care institutions, or residential facilities where large amounts of records were being maintained. He agreed with Ms. Comeaux that the facilities were licensed, so there was still the same issue, but it could be specified indicating that and give some detail.

Chairwoman Leslie thought that if the facility was doing a real disaster plan, all of these should be included. The county-based plans may already have some of these elements. She asked the committee members if they thought this recommendation was necessary.

Senator Cegavske asked Ms. Partida if she thought the language was too broad. She understood that Mr. Schiller wanted to encompass more, but she was concerned that it was not specific.

Mr. Schiller said that the recommendation could be for child welfare agencies to incorporate into contracts with providers that provide substitute care, foster care or residential care the emergency plan requirement.

Chairwoman Leslie said that the requirement would encompass more than providers that were licensed. She asked if there were contracts with foster homes. Mr. Schiller said that Washoe County did contract with foster homes. He said the term, "child welfare service providers" was very general. Mr. Schiller said that the term, "substitute care" was sometimes used to mean foster care, residential care, or relative care. He would defer to Legal Counsel as to how that should be worded.

Chairwoman Leslie asked if all of these elements were too much to ask for a foster home with two children.

Mr. Schiller did not think that was too much to ask. He noted there were components of the proposed requirement that already existed in the current contract with foster care parents. He noted that Kids Kottage in Washoe County already had a policy and procedure in place for how to protect records in the event of a disaster as part of its existing contract.

Ms. Comeaux noted that Kids Kottage was licensed under child care licensing, so there was already a requirement in the regulation for that. She was not sure which contracts this recommendation would apply to. Ms. Comeaux said that any of the foster homes that the state places children in were licensed. If the children had to be hospitalized, DCFS does not contract directly with the hospital. She noted the children were Medicaid eligible through the provider agreements with Medicaid and she was uncertain which contract the recommendation would pertain to.

Chairwoman Leslie suggested that the committee take no action on item 4D, unless the committee members objected.

Ms. Comeaux said that if the committee wants for items 4A through 4C to be adopted in the regulations, then 4C should be amended to add those things specifically.

Chairwoman Leslie explained that she would rather have the regulatory process sort that out. She did not want to scare away foster parents. If the recommendations were passed by the Legislature, she would like for DCFS to look at them when they were updating the regulations, but the committee would not request that at this point.

E. Child Welfare Agency Legal Representation

Mr. Goodman said Work Session Document item 5 (page 3, Exhibit C) would draft legislation to address the representation of the agency, which provides child welfare services in child abuse and neglect proceedings. He recalled that this was presented at the June 21, 2010, committee meeting.

Mr. Goodman explained that current law governs the requirements for a petition alleging that a child was in need of protection and provides that the District Attorney shall countersign each such petition alleging that the child was in need of protection. This recommendation proposes to amend NRS 432B.510 to require that the agency which

provides child welfare services, represent the best interests of the child in all proceedings and the District Attorney or Attorney General represent the child welfare agency in all such proceedings.

Mr. Goodman explained that this would be a change from the current language in statute which states that the District Attorney shall represent the public in these types of proceedings.

Chairwoman Leslie was concerned that there may be instances were social workers go to court without an attorney. Even after listening to the testimony that was presented to the committee, she was still troubled by that situation, particularly in Clark County, although there was potential for a problem in Washoe County. Chairwoman Leslie said the County Manager's office has provided information about how to resolve the conflict.

Constance J. Brooks, Senior Management Analyst, Office of the County Manager, Clark County, said the Office of the County Manager has undertaken a review of 82 cases which were identified by the Clark County District Attorney's Office. Based on the results of the review, changes to the Clark County Department of Family Services will be pursued. The Department of Family Services and the District Attorney's Office will work within the current dispute resolution policy, which has been signed by the County Manager, Virginia Valentine, and the District Attorney, David Roger. Also, the Office of the County Manager will work with the District Attorney on a going forward basis to identify problematic cases or issues within the Department of Family Services, and make necessary changes to address these issues. Further, Clark County and the District Attorney's Office will return to present a report to the Legislature during the 2011 Legislative Session regarding the progress achieved through this agreement. Because of this agreement, Ms. Brooks stated that the Office of the County Manager respectfully requests that the committee not pursue changes regarding the District Attorney's representation of the public's interest and allow Clark County to address these issues internally.

Sam Bateman, Chief Deputy District Attorney, Clark County District Attorney's Office, said he agreed with Ms. Brooks testimony, and said the Department of Family Services and the District Attorney's Office have been working together to address the issues since the 2009 Legislative Session, and would continue to do so. He hoped that, through that cooperation, the issue would be resolved. He said that the Clark County District Attorney's Office would be happy to present any information to the 2011 Legislature. He said the Clark County District Attorney's Office believes it was the best interest of the children of Clark County to maintain the current representation model.

Chairwoman Leslie agreed that much has been done since the last meeting of the committee. She asked when the dispute resolution policy agreement was signed. Mr. Bateman replied that the agreement was signed in January 2010.

Chairwoman Leslie asked how the agreement had been working. Mr. Bateman said that he had been told by people involved that it had worked very well so far. He said the agreement was modeled on the Washoe County model.

Chairwoman Leslie asked if the policy would be used going forward to identify problematic cases. Ms. Brooks said since those issues have not been thoroughly vetted, and were still undergoing review, the policy was still to be determined. She said there may be some use of that policy, but they will also look at other ways to remedy the situations on a case-by-case basis.

Chairwoman Leslie asked whether the report to the 2011 Legislature would include information on issues that were identified and resolved during the review of the 82 cases. Ms. Brooks agreed and added that the process would allow the department to make improvements that would be in the best interest of the child with regard to safety and permanency.

Chairwoman Leslie noted, by statute, the committee cannot meet after August 31. She would ask the Legislative Commission for a special authorization to call the committee together the first week of the 2011 Legislative Session to hear the report from Clark County on the progress that has been made. If there was a need to submit a bill draft request, the committee would still have the ability to do that. Chairwoman Leslie noted that term limits prohibited her from serving in the Assembly, and if she was elected to the Senate, she may not be appointed to the committee. She stated that Senator Wiener and Senator Copening would be part of the 2011 Legislature, so the committee could convene if the Legislative Commission appointed other members.

Senator Copening asked Ms. Brooks to describe the current dispute resolution policy. Ms. Brooks replied that she was not privy to the language within the dispute resolution policy. Mr. Bateman noted a copy of the policy was provided to the committee.

Chairwoman Leslie asked for comments from the committee members.

> SENATOR WIENER MOVED THAT THE COMMITTEE TAKE NO ACTION AT THIS TIME ON CHILD WELFARE AGENCY LEGAL REPRESENTATION. THE MOTION WAS SECONDED BY SENATOR CEGAVSKE.

Chairwoman Leslie asked Senator Wiener if she intended for the committee to accept the report, and request that Clark County report to the committee, or another form of the committee, at the beginning of the 2011 Legislative Session.

> THE MOTION PASSED UNANIMOUSLY.

F. Termination of Parental Rights and Children's Right to Inheritance

Mr. Goodman said that Work Session Document item 6 (page 3, Exhibit C) was the recommendation to draft legislation to remove the effect of termination of parental rights on a child's right to inheritance. He indicated that the recommendation was brought forward by John J. Cahill, Clark County Public Administrator; Jon Sasser, Washoe Legal Services; and Professor Richard L. Brown, University of Nevada, Las Vegas. He noted the recommendation would change statute to allow children to inherit from their family whose parents had their parental rights terminated, but the parent or family would not be able to inherit from a child if their parent's rights were terminated. Mr. Goodman noted that this item was bought forward by Assemblywoman Mastroluca as a bill draft request (BDR 116). He noted that the committee could bring the issue forward as a separate BDR, or express support for the concept and Assemblywoman Mastroluca's BDR separately.

Assemblywoman Mastroluca stated that she was contacted about the idea and brought it to the committee, and in the process of hearing testimony she submitted the BDR before it made it on to the agenda.

Chairwoman Leslie stated if the committee liked the concept she thought they could support BDR 116 by putting a statement in the final report that the committee reviewed and heard the bill and were in favor of the concept.

Assemblywoman Wiener appreciated the suggestion from Chairwoman Leslie that the idea of termination of parental rights and children's right to inheritance was included in the committee's final report to avoid duplication from Legal Counsel in drafting legislation, and provide legislative history and the reasons that it was discussed but did not move forward because it was already on a bill draft.

Chairwoman Leslie asked for a motion to include a statement of support to remove the effect of termination of parental rights on a child's right to inheritance and that the committee heard the bill and was in favor of the concept.

> SENATOR COPENING MOVED TO INCLUDE A STATEMENT OF SUPPORT TO REMOVE THE EFFECT OF TERMINATION OF PARENTAL RIGHTS ON A CHILD'S RIGHT TO INHERITANCE. THE MOTION WAS SECONDED BY ASSEMBLYWOMAN MASTROLUCA.
>
> THE MOTION PASSED UNANIMOUSLY.

G. Requirement for Notice in Adoption Hearings Regarding Sibling Visitation

Mr. Goodman stated that Work Session Document item 7 was the recommendation to require notice in certain adoption hearings regarding sibling visitation and provide that such hearings were not to be held at the same time as the adoption hearing. This issue

was brought forward by Judge Schumacher and Master Buffy Dreiling, Second Judicial District, and has received additional attention and work from other interested parties.

He referenced a handout with proposed language for the action. He noted the handout read New Language in bold italics (Exhibit D). Mr. Goodman said the handout was a revision to NRS 127, Section 2827, and the recommendation essentially came about as a response to Assembly Bill 364, 2009 Legislative Session, Section 10, which required that NRS 127 include the opportunity for a hearing on sibling visitation in cases where an adoption hearing was heard. This recommendation would propose to also include language about making public notice of that hearing and making it known to all interested parties. Mr. Goodman stated that the draft language received actually defined the interested parties to ensure that anyone associated with the adoptive child or family would have the opportunity to testify to the court regarding that sibling visitation.

Chairwoman Leslie stated that the suggested language clarified sibling visitation and how it would be handled in the notice of visitation.

Senator Copening asked for clarification on the language that the hearing to determine whether to include the order of visitation with the sibling would be held at a date and time other than when the petition for adoption was granted. She asked if the language was intended to be before the petition was granted or after the petition was granted.

Mr. Goodman replied that point was brought up at a previous meeting and the hearing for sibling visitation was not requested to be at the final adoption hearing because there was the potential for the sibling visitation hearing to become contentious. He said that the guardian of the siblings, which could be the biological parents of the child whose rights were terminated may not be in favor of the adoption proceeding, but in all cases they may not have any choice in the matter and that hearing could become contentious. The intent was not to disrupt the final adoption proceeding, which hopefully would be a happy occasion for the child and the adoptive parents. Therefore, probably the sibling visitation would be prior to the final adoption hearing so that those issues were worked out ahead of time.

Chairwoman Leslie asked for a motion to approve legislation to require notice in certain hearings regarding sibling vitiation and provide that such hearings were not to be held at the same time as the adoption.

> ASSEMBLYWOMAN MASTROLUCA APPROVED THE MOTION TO APPROVE LEGISLATION TO REQUIRE NOTICE IN CERTAIN HEARINGS REGARDING SIBLING VITIATION AND PROVIDE THAT SUCH HEARINGS WERE NOT TO BE HELD AT THE SAME TIME AS THE ADOPTION. THE MOTION WAS SECONDED BY SENATOR COPENING.
>
> THE MOTION PASSED UNANIMOUSLY.

H. Information Sharing Between Child Welfare Agencies and Legal Stakeholders

Mr. Goodman stated that Work Session item 8 proposed draft legislation to allow access to child welfare and delinquency records, reports, and orders to be released to legal stakeholders in certain circumstances. He noted the legislation was recommended by Judge Francis Doherty, Second Judicial District. Mr. Goodman said that there were several parts that were recommended by Judge Doherty and were put into three distinct recommendations.

The first recommendation (A) would amend Chapter 432 and 432B of NRS to allow child welfare records, including reports, recommendations and orders, to be disclosed to the Juvenile Delinquency Court for child treatment, custodial and case planning purposes. The recommendation would also prohibit child welfare records disclosed to the Juvenile Delinquency Court from being used against the youth in Juvenile Delinquency Court or criminal court proceedings or disclosed beyond such proceedings. He noted the background on this recommendation was from a Juvenile Delinquency Court standpoint and the difficulty in obtaining access to child welfare records of children or youth that crossover from the Child Welfare Court system to the Juvenile Delinquency Court system. The request recommended clearer instruction in statute that records be made available to the Juvenile Delinquency Court and do not impact or be used against youth in any pending cases or trials in court.

Chairwoman Leslie believed the recommendation made sense because they were aware many children were involved in both the child welfare and juvenile justice systems and wanted to promote a coordinated approach especially on the treatment side to ensure that information was shared. Chairwoman Leslie said she was comfortable with the way the language was outlined in the recommendation and asked the committee how they felt about the language.

Senator Cegavske wanted to make sure she was comfortable with the recommendation because of who was receiving information and how it was disseminated and used since it was dealing with children's lives. She wondered if she was correct in understanding that it was the juvenile delinquency court for child treatment and for planning purposes with the state welfare records.

Chairwoman Leslie said the way she read the recommendation was to allow the child welfare records from the child abuse and neglect agency be disclosed to the juvenile delinquency court. She explained that there might be a child in the child welfare system for abuse or neglect and the child was also involved in the juvenile delinquency court, and committed a crime and was in need of supervision and a certain type of treatment facility. Therefore, the juvenile delinquency court would need to have access to the child welfare records in order to make a decision about that child's case and where they should be treated or placed.

Senator Cegavske said the child's records could be disclosed to the child welfare agency, juvenile delinquency court or criminal court and asked who would make the decision on the record sharing.

Jo Lee Wickes, Chief Deputy District Attorney, Juvenile Delinquency, Washoe County, clarified that in reviewing Judge Doherty's recommendation, page 6, Exhibit C, she believed her concern was often juveniles in juvenile delinquency cases were currently or had previously been involved in abuse and neglect proceedings in dependency court. Ms. Wickes believed the intent and concerns of the legislation was to help the delinquency court understand those issues, specifically the types of treatments, evaluations and services that were provided to the juvenile and/or parents, so that they could better analyze the types of services and treatments that were necessary through the juvenile delinquency proceeding. Ms. Wickes believed that Judge Doherty was also concerned that when it was time for the juvenile delinquency judge to make decisions, a child could be placed in a home that was not suited for the child's safety and future success if there were past abuse and neglect issues in the home, which the court often learned about after the fact.

Providing an example, Ms. Wickes stated that she was recently prosecuting a young man for sexual misconduct and was aware from case records that the man and family had an extensive social services record. Because of confidentiality, in order for her to access those records, she had to issue a subpoena to social services to get copies of the records, because as a Prosecutor, any information that she believed was important or exculpatory had to be given to the public defender representing the man in the delinquency proceeding. Once the subpoena was issued, the file was provided to the social services attorney who went through to redact any information that was confidential, such as the names of reporting parties and that type of information. Those records were then provided in a redacted form, which she provided to the defense lawyer. Ms. Wickes stated that within those records was information about some of the juvenile's history, both as a victim and possible sexual impropriety with a sibling, which would help the person conducting the sex offender-specific evaluation. The information provided a global idea of what the young man's life looked like from the age of four when he first became known to social services. In addition, the information provided an idea of the types of issues that needed to be addressed in treatment, which was a result of the subpoena. Ms. Wickes stated that her only concern with the recommendation was the sentence that said it would prohibit child welfare records disclosed to the juvenile delinquency court from being used against a youth in juvenile delinquency or criminal court proceedings. Her concern was if the juvenile made statements, which could be admissible in a delinquency proceeding or a possible criminal court proceeding. Although Ms. Wickes noted that she was definitely in favor of the attorneys and court knowing as much information about the youth as possible, she was adamantly opposed to changing the rules of admissibility in evidence without really looking closely at what that would actually mean. A juvenile could make a statement that might be used against him and an attorney involved in the proceeding could issue a subpoena and get access to those records, which could be shared with the other counsel in this particular case. Whether or not that statement could be admitted into any type of court

hearing was something that there were extensive and adequate laws about regarding admissibility of that evidence, and she did not want to, in the name of providing full information to the court, upset that "apple cart" of other evidentiary rules about what was admissible. In addition, Ms. Wickes believed that it could be difficult, for instance, even if a prosecutor does not want to use that information to help prove an underlying delinquent act or crime, but it could be problematic if a child wanted to go home and some statement in the social services records ended up enlightening the court about the fact that perhaps the home was not the best placement for the child. From the child's point of view, that statement might be used against him, which she did not think was the intent. Accordingly, she was concerned about that particular language, but she believed that the underlying concept was to ensure that the judge in the delinquency case had information that would help aid a successful and safe placement, and also help the court fashion the type of services, treatment and evaluation that should be put into place in the delinquency proceeding.

Senator Cegavske stated that she understood the need for information sharing but was unsure if she was qualified to say which recommendation was the best. She asked if currently the information was not obtained other than by someone that had to petition it.

Ms. Wickes clarified that the way it worked on a practical level in Washoe County was if the defense attorney or prosecutor in the delinquency case wanted that information they issued a subpoena to the agency, then the files were sent to the agency's attorney who reviewed the information and provided it in a redacted form. There was a process by which a court could issue an order saying that they needed to review the records, which they could do so they could look at the records. However, there were concerns that the attorneys representing the parties in court wanted the same information as the court. Therefore, the question on a practical level was if the court was going to look at dependency records, how was that information given to the attorney for the juvenile, and to the Deputy District Attorney who was involved in the prosecution.

Ms. Wickes noted that there were several processes in place that allowed that information to be shared, which was allowable under the current confidentially laws. The process was cumbersome and she thought the intent was to make that an easier and faster process so that when the court was making decisions, the court and the attorneys involved in the delinquency case had access to the same information more quickly so the information was at their disposal.

Senator Cegavske asked if the recommendation was really needed.

Chairwoman Leslie believed that Ms. Wickes indicated that the current process was cumbersome and the recommendation would streamline the process and make it easier and much more likely that the child welfare records would be reviewed.

Teresa Lowry, District Attorney, Clark County, stated that this issue was not unlike the guardianship issue in that there were processes in place, albeit not the most efficient, to ensure that the court was provided with the information. Therefore, the juvenile

delinquency judge had the ability to hear from either the prosecutor or the defense attorneys in juvenile delinquency cases and all youth in the juvenile delinquency cases had attorneys to be provided the child welfare information. The Clark County juvenile delinquency judge, through the attorneys and if the prosecutor gets the information then they would share the information with the defense counsel, and if the defense counsel gets the information and it was likely that the District Attorney would get the information as well. So that information was going to be shared for purposes of treatment, placement and case planning and the ultimate report and dispositional.

Senator Copening asked if she was correct that the District Attorney's Offices were in agreement with what was being offered because it would provide additional efficiencies for them. However, the question was the line in the proposal that stated it prohibited records from being used against a youth in juvenile delinquency or criminal court proceedings or disclosed beyond such proceedings, and with the current process, the courts could use the records. She questioned why that language was included in the recommendation.

Chairwoman Leslie stated that she was advised by staff that those two components were originally a separate recommendation and the language was just put in the work session document. She stated that the committee could just approve the first part of the recommendation.

Ms. Wickes agreed that the recommendations were separate. She believed there were adequate laws in place that would help provide protections and determine whether the statement that a juvenile made to his social worker was admissible against him. She did not think that the intent of the record sharing and efficiency necessarily needed to include the fact that the statement was prohibited from being used against a juvenile. She questioned what it really meant, in a different context – it may mean something different to the District Attorney than to the juveniles involved. Ms. Wickes stated that there were ways to get the records, and courts and the parties could access the records, but it was not the most efficient method.

Chairwoman Leslie stated that the committee should encourage integrating services for youth in different systems and was in favor of approving the first part of the recommendation and leaving the second part as is, because there were a lot of different rules in law that covered those issues.

Senator Cegavske asked if the District Attorney's Office was in agreement with the recommendations and would support the recommendation during the 2011 Legislative Session.

Ms. Lowry replied that the concept behind the proposal was that it was important in a juvenile proceeding that the judge hearing a case had as much information as possible in order to make the right decisions for youth. She thought the District Attorney's concerns would be to ensure there were no unintended consequences from the proposal that limited judicial officers in an evidentiary way, or quarrel with existing rules

of evidence or with existing legal concepts. Ms. Lowry believed that the District Attorney's supported the proposal to the extent that the judicial officers had what they needed to do the right thing for children. She believed the District Attorney's Office supported the proposal to the extent they might need to do a little more work to ensure that they were not bumping up against other confidentialities or legal processes.

Sentor Cegavske asked Ms. Lowry if she was in favor taking the first part of recommendation 8.A., page 4, Work Session Document (Exhibit C) and leaving out the language that prohibited child welfare records disclosed to the Juvenile Delinquency Court from being used against a youth in juvenile delinquency or criminal court proceedings or disclosed beyond such proceedings.

Ms. Lowry stated that she was in favor of taking another look at the recommendation and nuancing the recommendation some. She had the same concerns of Ms. Wickes regarding the evidence code and making sure the recommendation was not limiting judicial officers with any admissibility and ensuring there were no other confidentially issues. In addition, making certain the process in which the information was given to a judge came through the parties in a streamlined way was important so that everybody was dealing with the same information. Ms. Lowry also asked if the information was going to the judge unilaterally, which she believed would become a concern and they had to ensure they were not being inconsistent with any other rules for the judicial officers.

Senator Cegavske stated that Ms. Lowry indicated that the concept of the proposed recommendation was fine, but she had concerns with some of the language.

Chairwoman Leslie stated that the proposed recommendation was just a concept at this point and there was no legal language. She noted the suggestion was to approve the first sentence of recommendation 8.A, amend Chapter 432 and 432B of NRS to allow child welfare records, including reports, recommendations, and orders, to be disclosed to the Juvenile Delinquency Court for child treatment, custodial and case planning purposes, and not approve the second sentence that prohibited child welfare records disclosed to the Juvenile Delinquency Court from being used against a youth in juvenile delinquency or criminal court proceedings or disclosed beyond such proceedings.

Chairwoman Leslie asked for additional comments or a motion to approve recommendation 8.A.

> SENATOR COPENING MADE THE MOTION TO APPROVE THE FIRST SENTENCE OF RECOMMENDATION 8.A., AMEND CHAPTER 432 AND 432B OF NRS TO ALLOW CHILD WELFARE RECORDS, INCLUDING REPORTS, RECOMMENDATIONS, AND ORDERS, TO BE DISCLOSED TO THE JUVENILE DELINQUENCY COURT FOR CHILD TREATMENT, CUSTODIAL AND CASE PLANNING PURPOSES AND OMIT THE SECOND SENTENCE OF 8.A. THE MOTION WAS SECONDED BY SENATOR WIENER.

THE MOTION PASSED UNANIMOUSLY.

Moving to Recommendation 8.B., Mr. Goodman explained that the recommendation would prohibit the closure of the child welfare case as a result of dual jurisdiction. The second part of the recommendation would require that the youth in such cases continue to have periodic case reviews and permanency hearings in order to ensure their ongoing eligibility for Title IV-E of the Social Security Act benefits.

Senator Cegavske stated that she was perplexed on the issue.

Bernie Adler, Right of Passage, stated that he was unsure what happened in the state of Nevada, but in California children would go into a juvenile detention hearing, but were also Title V-E eligible, so the judge would decide not to commit the children criminally, but would commit them with Title V-E funds to a rehabilitation facility. The child would continue to have regular reviews in both the child welfare and juvenile justice systems.

Chairwoman Leslie stated that it seemed like that was the opposite of what the recommendation was suggesting. Mr. Adler said the recommendation had a joint commitment in both the child welfare and juvenile justice systems.

Jeff Martin, Washoe County District Attorney's Office, stated that his understanding of recommendation 8.B. was that a child welfare case could not be closed simply because the child was in the juvenile delinquency system. He was not aware of that being done and stated that the jurisdiction under NRS 432B was specific and there was either a child in need of protection or not. If there was not a child in need of protection then child welfare closed its case and there was a coordination between juvenile dependency, juvenile delinquency and communication between juvenile probation and social workers about the care and treatment of a child. However, jurisdiction in terms of juvenile delinquency was specific and jurisdiction in terms of juvenile dependency was fairly specific.

Chairwoman Leslie did not think a case has been made for the recommendation.

Mr. Goodman explained the recommendation 8.C. authorized Judicial Districts to have discretion to allow a single judicial officer to address post adjudicatory delinquency dispositions in ongoing dependency cases where appropriate. He believed this was the system that was in place for the child welfare courts, and that "one judge-one family" model was being advocated, which Clark County was implementing. It was the model recommended for child welfare cases by Judge Leonard Edwards from testimony provided at the June 21, 2010, committee meeting.

Chairwoman Leslie stated that the recommendation implied that current statute does not specifically allow a judicial officer to address post adjudicatory delinquency dispositions in ongoing dependency cases where appropriate.

Mr. Goodman replied that was the indication. He believed it was the exact language of the recommendation of Judge Frances Doherty. He stated that her language was to give judicial districts the discretion to allow a single judicial officer to address post adjudicatory delinquency dispositions in ongoing dependency cases where appropriate.

Chairwoman Leslie believed when Judge Doherty testified at a previous meeting the committee got caught up in other issues and Judge Doherty had to provide abbreviated testimony.

Ms. Wickes said she was unaware of a statutory prohibition that would prohibit a judge who has been sitting in a delinquency matter to arrange to enter some disposition orders for a delinquency case where appropriate. She was unaware of a statutory change required in the NRS to allow this to happen. Ms. Wickes noted that the rural counties were much more seamless and not as compartmentalized as Washoe County. From brief discussions she had with the Clark County's District Attorney's Office, she was aware they were doing this in their jurisdiction, although it sounded like the delinquency judge was sometimes also becoming the dependency judge in Clark County's jurisdictions.

Kevin Schiller, Director, Washoe County Department of Social Services, added that he believed through the work of the model court and what they were trying to do in Washoe County, the reality was looking at the joint custody children and what they were trying to do was create efficiencies within the systems, so if there was something that prohibits it, obviously they could continue to move forward with that practice. It was the same issue in the information sharing and how do they efficiently share information to avoid duplication and how do they expedite the court process.

Chairwoman Leslie stated that she would talk to Judge Doherty and make sure a bill draft was submitted if there was the need.

I. Penalties Relating to Child Prostitution

Mr. Goodman stated that Work Session item I dealt with pandering and prostitution of minors. He noted that the overall recommendation was to draft legislation to address penalties for pandering, soliciting a minor for sex and conspiracy to solicit, pander and traffic a child for prostitution. Mr. Goodman stated that the specific recommendations were addressed in several presentations that the committee received. He noted that the language for the recommendation was provided by Mr. Sam Bateman, Clark County District Attorney's Office, by request from the committee for some idea of how the District Attorney's Association felt about the issue and to provide some exact changes to the statute that could be considered. The first recommendation (A): Current law provides that a person who was found guilty of pandering a child (NRS 201.300), pandering a child by detaining a child in a brothel because of debt (NRS 201.330), or pandering a child by furnishing transportation (NRS 201.340) was guilty of a category B felony. If physical force or the immediate threat of physical force was used upon the child, the person shall be punished for a minimum term of not less than 2 years and a

maximum term of not more than 20 years and may be further punished by a fine of not more than $20,000. If no physical force or immediate threat of physical force was used upon the child, the person shall be punished for a minimum term of not less than 1 year and a maximum term of not more than 10 years and may be further punished by a fine of not more than $10,000. The recommendation would raise the penalties for pandering a child, either by raising the specific minimum and maximum terms of imprisonment allowed under a category B felony, defined in NRS 193.130, and/or increasing the amount of the fine, or by making the penalty for such crimes a category A felony.

Mr. Goodman stated the recommendation (A) laid out the current situation but the question was if the committee wanted to increase the penalties for pandering of a child under the three different circumstances in NRS 201, increase the penalty from a category B to a category A felony, or if remaining as a category B, increase the prison term of 1 to 10 years if no physical force or threat of physical force was involved, and 2 to 20 years if physical force was involved. In addition, the aspect of the financial fines was addressed during the 2009 Legislative Session (A.B. 238), which imposed greater financial penalties on persons found guilty of pandering, and the committee may consider if the financial fines were appropriate for the crime.

Chairwoman Leslie asked if the recommendation (A) was the recommendation of the District Attorney's Association. Mr. Bateman replied that he provided the information at the request of the committee and he has not gone to the Nevada District Attorney's Association and asked what was needed in respect to the recommendation. However, he provided the committee some suggestions during previous testimony that he thought the committee could look to see if they wanted to move in a particular direction. He noted that Recommendation A generally provided the sentences as they relate to pandering, and Recommendation B was bringing in line some subsections of pandering statutes to be consistent with others, which he believed was definitely a doable change in the Legislature because it would make the statute consistent with other pandering statutes and added an enhanced penalty when dealing with minors. Recommendation C was actually a bill that was passed during the 2009 Legislative Session (Chairman Horne's bill) that increased the penalties for soliciting a minor to a category E felony from a misdemeanor, so any increase in that penalty would probably have to be looked at in the Judiciary Committee. Recommendation D was his suggestion in response to Assemblyman Hambrick's interest in getting some language about conspiracy to commit the crimes in the pandering statutes and human trafficking statutes. He noted that as they currently exist, none of the crimes were gross misdemeanors and if the crimes were moved into the statute that included some conspiracies as felonies, the committee might also want to do that. For instance if someone conspired to commit robbery, it was a category B felony, but if someone conspired to commit burglary it was only a gross misdemeanor. He suggested putting the pandering statutes into the portion of crimes where the conspiracy would result in a felony. Mr. Bateman imagined the District Attorney's Association would support, at a minimum, Recommendation B and D because he believed they were doable by the 2011 Legislature and were good cleanups to the statutes.

Chairwoman Leslie thanked Mr. Bateman for his input. She noted that the committee has not had heard a lot of testimony about whether the recommendations would actually help the situation, which was her only struggle. She noted that penalties could be enhanced and larger fines could be imposed, but she wondered if that would really make a difference. She was looking for testimony or evidence from the District Attorney's Association that making the changes would help the situation.

Mr. Bateman stated that when District Attorneys prosecute in Clark County they were prosecuting under the pandering statute and the living off the earnings of a prostitute statute, which he believed were the statutes that had the elements to allow them to go after individuals that were pandering juveniles. Mr. Bateman said when he reviewed the statutes the living from the earnings of a child prostitute does not have a subsection like the rest of the statutes where the penalties were increased (Recommendation B). He believed when dealing with multiple panderers (Recommendation D), which was seen on occasion, and people were conspiring to pander children, the penalty should be more than a gross misdemeanor. Mr. Bateman did not think it was unreasonable and would be a good tool going forward to be able to charge persons who conspire to pander children with a felony. He said the punishment was not less than 1 year and a maximum term of not less than 6 years, which he believed was reasonable and would help in the prosecution of these types of cases. He believed the District Attorneys Association would agree with the recommendation.

Chairwoman Leslie appreciated the information from Mr. Bateman. She noted that his suggestions and the most effective options were Recommendations B and D.

Assemblyman Hambrick concurred with Mr. Bateman. He said the committee was a policy committee and as they review this type of legislation, particularly in the pandering and human trafficking arena, if the penalties were increased, people would be deterred unless they were willing to pay the financial cost and face jail time. He hoped the committee would look at Recommendation B and D because he thought the legislation would be an effective deterrent for the people that commit these types of crimes.

Senator Copening asked Mr. Bateman if he was not in favor of Recommendation C, increasing the penalties for a person who was found guilty of soliciting a minor for sex.

Mr. Bateman replied that Recommendation C, current law provides that a person who was found guilty of soliciting a minor for sex, was guilty of a category E felony (1 to 4 years imprisonment with a mandatory suspended sentence) (NRS 201.354). This recommendation proposes to amend NRS 201.354 to provide that a person found guilty of soliciting a minor for sex was guilty of a category D, C, or B felony. Recommendation C was passed in 2009 and the penalties increased from a misdemeanor to a category E felony. Mr. Bateman indicated that anytime they wanted to increase penalties or the category of felony, there was a fiscal note, which ended up in a fiscal committee. He said the thought process was if the penalties were increased there might be more people in prison and therefore a large cost to the state. He stated the reason he did not say anything particular about Recommendation C was the fact

that it was so recent and he did not have a lot of record to provide the committee as to its effectiveness. Mr. Bateman stated that personally he thought the penalty should be more than a category E felony, but he believed that taking baby steps was a good start.

Chairwoman Leslie thought at this point the committee should proceed with Recommendation B and D, which were recommendations that have not been tried before and would really make a difference.

SENATOR WIENER MOVED TO APPROVE RECOMMENDATION B, AND D. THE MOTION WAS SECONDED BY SENATOR CEGAVSKE.

THE MOTION PASSED UNANIMOUSLY.

J. Background Checks for Employees or Residents of Facilities that House Children

Mr. Goodman said that Recommendation 10, draft legislation to require background checks for employees of all facilities that provide residential services to children, was from the Legislative Auditor's Review of Governmental and Private Facilities for Children, presented at the April 2010 meeting. He noted the recommendation was broken down among six different types of facilities and there were four sub recommendations.

He noted that 10.A. would be to amend the appropriate chapters of NRS to require all facilities that provide residential services to children, including:

(1) group foster homes which provide full-time care for 7-15 children (Chapter 424 of NRS),
(2) child care facilities or institutions (Chapter 432A of NRS),
(3) mental health treatment facilities, which will include any medical facility residential facility for groups, agency to provide personal care services in the home or home for individual residential care that provides residential mental health services to children (Chapter 449 of NRS),
(4) substance abuse treatment facilities (Chapters 449 and 641C of NRS),
(5) detention and correction facilities at the local and state levels (Chapters 62G and 63 of NRS), and
(6) resource centers (TBD),
to obtain and receive the results of state and federal fingerprint background checks for all employees prior to allowing the employees to have independent unsupervised access to the children in those facilities.

Recommendation 10.B. would amend the appropriate chapters of NRS to specify the offenses for which a prior conviction would exclude a person from obtaining employment at a facility that provides residential services to children. He stated that the committee may wish to review the list of offenses that currently prohibit a person from being employed by a child care facility under NRS 432A.170 and for mental health treatment facilities under NRS 449.188.

Mr. Goodman stated that Recommendation 10. C. required all facilities that provided residential services to children to maintain the results of the background check for each employee for as long as that person remains employed by the facility. This recommendation would amend the appropriate chapters of NRS to provide a similar requirement such as the current law requiring child care facilities to maintain records of its employees under NRS 432A.1785.

Recommendation 10. D. required background checks to be obtained periodically for persons remaining employed at a facility for a specified time. The committee may wish to consider NAC 432A.200, which requires fingerprints to be taken within three working days after hiring and every six years thereafter, or NRS 449.179 which requires background checks for employees of mental health treatment facilities to be completed at least once every five years.

Chairwoman Leslie thanked Mr. Goodman for the explanation of the recommendations. She believed the committee remembered the Auditors' report on the mish mash of state laws. The recommendations were a great opportunity for the committee to protect children by making background checks more standard across the different types of facilities. She asked if the committee wanted to prohibit employees of all the facilities from having independent unsupervised access to children until background check results were provided.

Senator Wiener asked Chairwoman Leslie if each recommendation was going to be taken separately. Chairwoman replied that it would be easier to discuss each separate recommendation.

Assemblywoman Mastroluca asked Mr. Goodman if the goal of the recommendations was to ensure background checks were the same across the board at all facilities dealing with children.

Mr. Goodman replied that was essentially the goal and background checks would be defined by these six types of facilities. He stated that they could not say that every facility in every instance would be covered but at least the types of facilities identified on page 7 (Exhibit A) would be addressed. He added that per federal law, foster homes were currently required to receive the results of a background check prior to being licensed as a foster home; therefore, individual foster homes were covered. However, the other five types of facilities appear to be silent in Nevada statute.

Chairwoman Leslie stated that the facilities they were discussing were located on page 6 (Exhibit C). She believed the argument against the recommendations was that someone might argue that it took too long for a background check to come back and facilities needed staff to have unsupervised access to children, which left children open to potential abuse.

Senator Wiener stated that she wanted to support Chairwoman Leslie because she feared access to children could be given to someone and then their background fingerprint check determined that the person could not be around children, and she did not think that was a standard the committee wanted for children.

Senator Cegavske stated that when she owned a convenience store she required alcohol education card (TAM cards), which were only subject to local discretion of background checks, and a national search was not conducted. She wanted to ensure that background checks were from a national database because she believed that only doing one county or a partial background check would not provide enough information. Senator Cegavske asked if the police or authority had a responsibility to notify the facility when an employee committed a crime after the background check was complete.

Chairwoman Leslie replied that the recommendation was for state and federal fingerprint background checks.

Mr. Goodman stated that the Research Division of the Legislative Counsel Bureau requested a national request for information through the National Conference of State Legislatures (NCSL) to see what other states were doing for background checks. There were examples in other states that required background checks, but in the majority of the cases reviewed, law enforcement was not required to report back to the employer if anything changed with the employee. He said that the law enforcement agency, or whoever conducted the background checks provided the results one time, and there was no requirement to monitor or inform the employer of any status change. Mr. Goodman said that with the tremendous number of employees that the background checks would cover, requiring the Criminal History Repository to report the status of employees could be a very cumbersome and expensive process to put in place.

Chairwoman Leslie asked if the committee was okay with standardizing legislation to require background checks for employees and not allowing unsupervised access to children. She asked if the committee wanted to put the specific offenses in statute that would exclude a person from obtaining employment at a child care facility or mental health treatment facilities.

Mr. Goodman explained that this was already addressed for the child care facilities and mental health treatment facilities and in those two chapters of statute those offenses were already outlined. He advised the committee to be consistent and carry lists over to the other four types of facilities.

Chairwoman Leslie agreed that the goal was to have consistency in background checks for the facilities. It did not matter if it was a child care facility, mental health treatment facility, substance abuse treatment facility or detention facility, they were all places where a child was being treated by someone other than a parent.

Mr. Goodman added that in Section 170 of NRS 432A there was an example for child care facilities and the offenses that would prohibit a person from working at the facility. The offenses included murder, voluntary manslaughter or mayhem, any felony involving use of a firearm or deadly weapon, assault with intent to kill or commit sexual assault or mayhem, sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure, or other sexually-related crime. Other offenses included, abuse or neglect of a child or contributory delinquency and a violation of federal or state law regulating possession or distribution of any controlled substance or dangerous drug, abuse and neglect, exploitation or isolation of older persons or vulnerable persons, and any offense

involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property within the previous seven years.

Chairwoman Leslie asked the committee how they felt about applying that list of offenses across the board to exclude someone from seeking employment in a facility dealing with children.

Moving to Recommendation 10.C., Chairwoman Leslie stated that the recommendation required that all facilities that provide residential services to children to maintain the results of the background check for each employee for as long as the person remained employed at the facility.

Recommendation 10. D. required that background checks be obtained periodically for persons employed at a facility for a specified time, which was the concern of Senator Cegavske. She said that an employee could pass the first background check and then commit a crime and was convicted and the facility was unaware it happened. Chairwoman Leslie did not think they could require someone to keep track of where people were working and the system was not able to respond. She asked if the Committee wanted to require repeat background checks, and if so, how often. She indicated that there were examples on page 6, Exhibit A, and in one NAC fingerprints were required to be taken within three working days and every six years thereafter, and in another NRS background checks for employees of mental health treatment facilities were required at least once every five years. Chairwoman Leslie asked if the committee had a feeling for how often background checks should be repeated on employees.

Senator Cegavske agreed that background checks should be conducted more often. She asked if there was a cost benefit analysis and was the agency or the employee required to pay for the background check. In addition, even if background checks were done every year, someone could still commit a crime in that time without the facility knowing.

Chairwoman Leslie noted that the Legislative Auditors report showed that some of the facilities never required another background check.

Mr. Goodman replied that different facilities and sections of statute required the employer to pay for the background check, or in some cases the employee paid for the background check when obtaining their license. He said the cost was approximately $50.00, and could be as high as $100. In addition, there were different costs for an electronic fingerprint check versus fingerprint cards.

Senator Cegavske said she has visited fingerprinting facilities and people could wait hours in line to get fingerprinted. She wondered if employees would need to take a day off if more frequent background checks were required, and were there instances where employers conducted fingerprinting in the work place and then the fingerprints were sent in.

Chairwoman Leslie stated that requiring more frequent background checks was problematic and it would be a cost to someone, but they had to think about the child that avoids being harmed by someone who should have not been employed at the facility.

Since there were so many facilities that never required follow up background checks it was impossible to quantify.

Senator Copening said she was aware that fingerprint cards took much longer to process by the Federal Bureau of Investigations than electronic fingerprinting. She wanted to ensure if the bill passed that the agency stipulated that fingerprinting be done electronically, or facilities could be waiting months for the results to come back and meantime people who have not yet been approved must be supervised while waiting for the results.

Mr. Goodman added that the state Criminal History Repository indicated that electronic background checks were currently taking approximately 48 to 72 hours to process, and fingerprint cards took an average of 4 to 6 weeks for return of results. He noted that the electronic devices have been made available through funding from the state and were available at every Sheriff's office in Clark and Washoe Counties, and the rural counties.

Senator Cegavske asked if it could be required in the recommendation that facilities were not allowed to hire an employee until the background checks were complete and maybe facilities would update their system and utilize the electronic background checks, which would shorten the wait time.

Chairwoman Leslie believed the incentive for not hiring employees before the return of the background checks was to provide the electronic background fingerprinting checks since the wait time was so different. She noted that employees usually had to go through orientation and training before actually working with children, so the 48 to 72 hour process time for the return of background checks was good. Chairwoman Leslie stated that the last dilemma for the recommendation before a vote was taken was how often that background checks should be conducted. She asked the committee if they wanted to require periodic background checks or one background check for as long as the person remained employed at the facility.

Senator Wiener suggested that the committee recommend periodic background checks. She said there could be an employee at a facility for 10 to 15 years and many things could happen during their employment. Sentor Wiener even thought that 5 or 6 years between background checks seemed too long. She suggested requiring periodic background checks every 3 years.

Senator Cegavske believed that requiring periodic background checks was a good start. She thought about the 90 percent of employees that were good employees and unfortunately the employees that never had issues were always penalized because of the few people that did things wrong. She stated that one of the things Assemblyman Hambrick mentioned was that maybe the electronic background fingerprint checks could be resubmitted every year and an update could be provided. She asked if a minimum of once every five years for a background check could be put in the recommendation.

Chairwoman Leslie believed that was a good place to start. She noted that the recommendation would get more debate during the 2011 Legislative Session. She

stated that at the least a statement could be made that children needed to be protected in the facilities.

Chairwoman Leslie asked for a motion to require that all facilities that provide residential services to children to obtain state and federal fingerprint background checks of all employees prior to allowing employees to have independent unsupervised access to the children in those facilities. In addition, the committee would use the list of offenses from NRS 432A.170, and require that the results of the background checks be maintained at the facility as long as the person was employed by the facility. Also, require background checks be obtained at least once every five years for persons remaining employed at a facility for a specified time.

> SENATOR CEGAVSKE MADE A MOTION TO REQUIRE THAT ALL FACILITIES THAT PROVIDE RESIDENTIAL SERVICES TO CHILDREN TO OBTAIN STATE AND FEDERAL FINGERPRINT BACKGROUND CHECKS OF ALL EMPLOYEES PRIOR TO ALLOWING EMPLOYEES TO HAVE INDEPENDENT UNSUPERVISED ACCESS TO THE CHILDREN IN THOSE FACILITIES. IN ADDITION, THE COMMITTEE WOULD USE THE LIST OF OFFENSES FROM NRS 432A.170, AND REQUIRE THAT THE RESULTS OF THE BACKGROUND CHECKS BE MAINTAINED AT THE FACILITY AS LONG AS THE PERSON WAS EMPLOYED BY THE FACILITY. ALSO, REQUIRE BACKGROUND CHECKS BE OBTAINED AT LEAST ONCE EVERY FIVE YEARS FOR PERSONS REMAINING EMPLOYED AT A FACILITY FOR A SPECIFIED TIME. THE MOTION WAS SECONDED BY ASSEMBLYWOMAN MASTROLUCA.
>
> THE MOTION PASSED UNANIMOUSLY.

Sara Partida, Principal Deputy Legislative Counsel, asked for clarification on what the committee envisioned as being supervised access to children versus unsupervised access.

Chairwoman Leslie stated that she left out an important word, which was independent unsupervised access. She believed that language was used in the Legislative Auditors report.

Mr. Goodman stated that he provided examples from other states, page 30, Exhibit A, that have this language in statute, and the supervised access required supervision from someone that previously passed their background check and was authorized to work with children.

Ms. Partida asked if she was correct that the committee was trying to make the recommendations for background checks convictions consistent among facilities. She stated that the two examples provided – NRS 432.170 and NRS 449.188, were not currently consistent. For example in NRS 449.188 there were 15 specific criminal requirements that would prohibit a person from being employed by the facility, and only

8 criminal requirements were listed in NRS 432.170. She wondered if the committee wanted her to amend NRS 449.188 to be consistent with the NRS 432.170, or did the committee want that statute to remain the same.

Chairman Leslie stated that the mental health treatment facility description of requirements went into a lot more detail.

Ms. Partida stated that in NRS 449.188, the convictions currently applied to all facilities for intermediate care, skilled nursing, residential facility for groups or homes for individual residential care. The convictions included murder, voluntary manslaughter or mayhem, assault with intent to kill or commit sexual assault or mayhem, sexual assaults, statutory sexual seduction, incest, lewdness or indecent exposure or any other sexually related crime that was punishable as a penalty, prostitution, solicitation, lewdness or indecent exposure or any other sexual related crime that was punishable as a misdemeanor within seven years; a crime involving domestic violence that was punished as a felony; crime involving domestic violence that was punished as a misdemeanor within seven years; abuse or neglect of a child or contributory negligence; a violation of any federal or state law regulating the possession, distribution or use of controlled substance or other dangerous drugs within seven years; abuse and neglect, exploitation or isolation of an older person or vulnerable person; violation of any provision of law relating to the state plan for Medicaid or a law of any jurisdiction which prohibits the same or similar conduct within seven years; violation of NRS 422.450 to 422.590; criminal offense under the laws governing Medicaid or Medicare within seven years; any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property within seven years; any other felony involving the use or threatened use of force or violence against a victim with the use of a firearm or deadly weapon and attempt or conspiracy to commit any of those offenses within seven years.

Chairwoman Leslie stated that she would go with the more extensive list of convictions that would exclude an employee from working at a facility that provided residential services to children. The conviction that was different and made her pause was Medicaid and Medicare fraud, but there was also embezzlement and misuse of funds. She asked for comments from the committee.

Ms. Partida stated that convictions in NRS 449.188 applied specifically to facilities that dealt with Medicare and Medicaid patients.

Chairwoman Leslie stated that some of the other convictions might apply to Medicare and Medicaid patients such as substance abuse treatment facilities as well.

Ms. Partida stated that was correct, and as well as in the mental health treatment facilities, which would now include other types of medical facilities that provide residential mental health treatment to children that may not have Medicaid or Medicare eligibility.

Chairwoman Leslie reminded the committee that the recommendations were a bill draft request. She asked the committee members if the more extensive list of convictions that would exclude a person from working at a facility was okay for the bill draft request. Or did the committee prefer the less extensive list of convictions, which had to be consistent across the board, so there might be some push back from the mental health treatment agencies if they were taking away some of their offenses.

Assemblywoman Mastroluca said that NRS 432A related directly to child care facilities and the majority of the convictions were dealing with child care. She understood some of the drug treatment centers were dealing with Medicaid and Medicare, but she wondered about someone who may have been convicted for Medicaid fraud and could now not work at a preschool or licensed day care facility, and who would probably never enter that situation again. Therefore, she was hesitant about making such a broad statement, but agreed that it was something that would be discussed during the 2011 Legislative Session.

Chairwoman Leslie concurred with Assemblywoman Mastroluca and she did not want to make such a broad statement, although the committee did not have enough time to debate each conviction. She thought it may work out that they could not be consistent on that point, but some of the facilities did not have anything in language that excluded a person from working at the facilities.

Mr. Goodman stated that four of the facilities had the statute silent on that aspect.

Chairwoman Leslie thought it could be left up to the committee and the Legislature to decide. She thought starting with the broader conviction requirements that would exclude an employee from working at the facility and from the testimony heard during the 2011 Legislative Session, they could start excluding some of the convictions that did not apply. She believed this was a complicated recommendation and would receive a lot of attention during the 2011 Legislative Session.

Senator Wiener requested that the committee move forward with the original recommendation and allow the standing committees during the 2011 Legislative Session to bring the issue forward and review the list in more detail.

Chairwoman Leslie asked if the committee wanted to go with the list of requirements that would exclude a person from working at child care facilities (NRS 432A.170), which was the originally discussed, or the broader list of requirements for mental health treatment facilities (NRS 449.188), which were provided by Ms. Partida.

Senator Wiener asked to go with the original motion to approve the requirements for child care facilities (NRS 432A.170).

Chairwoman Leslie asked the committee if they wanted to leave the mental health treatment facilities requirements alone.

Ms. Partida stated that she could draft the legislation requested by the committee. Her concern was because the committee stressed that background check requirements needed to be strengthened and consistent between different types of facilities. Chairwoman Leslie agreed but left the original motion as stated.

Chairwoman Leslie thanked the committee because she believed the recommendation was a step forward to making sure children were protected in the state.

V. PUBLIC COMMENT.

Julia Sarkup-French, pro se consultant and motion strategist, began her presentation by stating that young girls involved in prostitution were also quite mature and because Nevada was a state that legalized prostitution, the committee might want to consider giving the girls the option of legalized prostitution because if the girls were going to prostitute, they were going to prostitute, and the committee needed to take into account that the girls were a lot more advanced than ever before. Therefore, instead of just penalizing the girls, the committee should give the girls an offer of something other than a penalty and access the profit from the girls, because they should learn how to prostitute in a professional manner because it was prostitution, and it was legal in the State of Nevada if done properly. Ms. Sarkup-French stated that the majority of the girls were not immature children and the committee might want to recognize that there was other reasoning behind prostitution. She believed prostitution was a thought for increasing revenue for the state, and did not care if the idea sounded weird.

Ms. Sarkup-French stated that the committee discussed background checks in people employed at facilities that provide residential services to children and how often the checks should be done. She suggested surveillance cameras in facilities so the employees were captured on film with the children, because God forbid a child was molested and not seen.

Ms. Sarkup-French referenced page 5, Exhibit C, regarding the conspiracy when two people conspire to commit to kidnapping someone. She asked what was the difference in taking children away from the indigent family members and placing them because there were six new places to house the children outside of the family home, and the children were adoptive and provided a large revenue for the state, which was called human trafficking because the state was profiting from the children. She was watching the judicial system not have access to where the people can stand up for themselves, especially with 128.1093, where a presumption was going to overcome a fact, which she was not sure how that goes, other than a lie was not going to be overcome with a truth and was that the same thing, because that was what she heard. She said the judicial system was putting the “cart before the horse” when there was a hearing in one jurisdiction at the district court level, and another hearing at the same time in the juvenile court. She was unsure, but it sounded like the biblical splitting of the child into two and it was impossible or should be impossible. Ms. Sarkup-French asked if the committee was going to provide reasonable effort as the state defined it in this situation, and apply that, or was it token efforts – she was unsure if it was one and the same or

different, because it seemed the same just on different sides of the fence. Currently, counsel was provided to indigent people to protect their termination of parental rights or being classified as parental fault, and the parents could not overcome this and were not given, not only the chance in the court system, but they were also with this legal algebraic formula to remove children and keep them removed, which was not being changed. She asked what was the difference in child harvesting and human trafficking – there was not a difference. Children were being put on psychotropic drugs so that they would socialize better. Ms. Sarkup-French referenced Jade Alexis Shober, a child that was taken by the state without reasonability. In fact, Ms. Sarkup-French was appalled that nobody was doing anything different about this or was this the state's agenda – the state's narrowly tailored state interest to remove children permanently rather than leave them in foster care. She thought it was very important the committee understand that these were crimes against humanity. Domestic terrorism was the Patriot Act of 2001 – torture, genocide, kidnapping, child trafficking, offenses against children, and the Hostage Taking Act. For example, what does she do with the information when an officer of the law, a Sergeant in the Carson City area, was distributing an illegal substance to a person in order for them to commit a crime? Was that what the committee was referring to in the background checks? She wondered if she went to the police station if she was going to get the "good ol' boy" system, or because she informed the committee, was there someone the committee was going to tell her to talk to. She noted that this was going on right underneath the nose of the system and somebody had better do something about it because if nothing was done within the state, the federal government would take care of it just as they did with the attorneys of the state. Ms. Sarkup-French concluded her testimony and said she wanted to make everyone recognize the prostitution issue.

Donald S. Hackett, Jr., stated that Barbara Buckley has received information from him explaining that Nevada was currently losing federal funding regarding the things the committee discussed. The federal funding the state was losing was the money that was handed down in 1970 and signed by President Richard Nixon and for the Civil Rights Act. So President John F. Kennedy could not sign it, Lyndon B. Johnson would not sign it, so when it came in, President Richard Nixon signed the Act and every Congress has passed it. Nevada was the only state that he was aware of that did not have the program. Mr. Hackett stated that without the program, the state did not receive any additional public assistance funding or any medical assistance funding, because these particular workers were not available for the community. The Act was under public laws, it started under Public Law 90-248, Section 210, A through G, and since 1970, each state has received stipends, to provide services to the people of the state. He stated that the ratio of the bills were three to one, and for every one social worker there were three community service workers specialized in community services, who spent 85 percent of their time out in the street. Mr. Hackett noted that he was the manager of a program in California, and the program never lost a child in the 39 years he worked there. He has seen the 189 babies in a gymnasium on the news because Child Haven did not have room and there were no foster homes for the babies. He was a foster grandparent and a retired Northern California government employee of 39 1/2 years, in San Francisco, and Santa Clara County. He has never seen it where the people were

suffering, mainly the children, and nobody cared. Mr. Hackett stated that the children did not do anything and were looking to the adults for help, so if the adults were not there for the children, what you have turned a child under federal law, there were called 300's ---- Code, where they went from a 300 where they were protected by the court, a ward of the court, and become a 602 –so how did a child go from protected by the court to a 602, which was a felony juvenile. He noted that a 601 was closed out, which was the prevention, so what was jumping was where a 300 was hurt and molested, joins the other group – the 602s, and now there was a child that does not need any more help because the child would be going to a center. There was no counseling in the home for the child because the social workers say that it was unsubstantiated, and he wondered what was unsubstantiated. If there was a complaint of a child abuse situation under the federal law, they state had to act now. He stated there were no cell phones in the 1970s and workers would be called at their homes to go to the situation. A 24-hour child abuse hotline was started and they were the great grandfather to Job Corp, the children's shelters, the infant and toddler centers, which were all to help the children, and somewhere in the new Title-IV E Tariff Act, the children were left out, because why would they want all kinds of chiefs and not enough Indians. Why would the state want to hire a social worker that could not do Medicare services, and case management services because they were under Medicare?

Concluding, Mr. Hackett stated that he would continue to be involved with the committee and he was aware there were things happening and if the committee stuck to federal law the available funding was on the CFR and USC, and he did not see any available funding under the NRS. Under federal law, money was available for rural states, counties and towns and programs could be developed and all the federal government wanted was accountability and demonstration, but to deny the funding to the state because the state did not want to demonstrate and account for the money he believed was wrong.

Mr. Hackett stated that he brought three Pop Warner football helmets to the meeting for the boys. He said one helmet was provided by the Southern Nevada Pop Warner football, it was not national Pop Warner football, and it was not recognized nationally as Pop Warner and it was a helmet that a boy 12 years of age was given to hit another boy. Two years ago, there were two paralyzed children who were wearing the helmets, a fee was paid, and a helmet was provided for the child, while football were selling other helmets.

Chairwoman Leslie thanked the committee members for devoting their entire afternoon for the meeting. She believed there were some good bill draft requests to take forward to the 2011 Legislative Session. She thanked staff, especially Mr. Goodman for all his hard work, and appreciated all the input from the community and the agencies. She noted that the committee took on some tough issues. She believed some progress has been made and looked forward to working with everyone to implement some good legislation on behalf of children.

Senator Wiener stated that on behalf of her and the other committee members that Chairwoman Leslie has been an extraordinary leader, established extraordinary issues to discuss, has done her homework and brought the work to the committee. The Chair has inspired the committee to participate at their fullest level and to be engaged in issues that were critical to Nevada, and to the young people. She indicated that child welfare was a passion of Chairwoman Leslie since she has known her and thanked her for the leadership that she has shared with the committee for the best interests of the entire state. Senator Wiener added that Chairwoman Leslie has been exemplary from the first meeting of the committee to the "bang of the gavel" and it has been a privilege to serve with Chairwoman Leslie. The committee members agreed with Senator Wiener.

Chairwoman Leslie thanked the committee for their kind comments and support. She appreciated each member and hoped to serve with them during the 2011 Legislative Session and make sure the great recommendations that were brought forward were carried through and put into place.

VI. ADJOURNMENT.

The meeting was adjourned at 5:00 p.m.

Respectfully submitted,

_____
Donna Thomas, Committee Secretary

APPROVED:

_____
Assemblywoman April Mastroluca, Chairwoman

Date: _____

Copies of exhibits mentioned in these minutes are on file in the Fiscal Analysis Division at the Legislative Counsel Bureau, Carson City, Nevada. The division may be contacted at (775) 684-6821.