

# Legislative Committee on Child Welfare and Juvenile Justice



## Bulletin No. 13-15

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**LEGISLATIVE COMMITTEE ON CHILD WELFARE  
AND JUVENILE JUSTICE**

**BULLETIN NO. 13-15**

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## SUMMARY OF RECOMMENDATIONS

### LEGISLATIVE COMMITTEE ON CHILD WELFARE AND JUVENILE JUSTICE

*Nevada Revised Statutes 218E.705*

This summary presents the recommendations adopted by the Legislative Committee on Child Welfare and Juvenile Justice at its May 9, 2012, meeting. The Committee submits the following recommendations and bill draft requests (BDRs) to the 77th Session of the Nevada Legislature:

#### RECOMMENDATIONS FOR LEGISLATION

##### *Child Care Facility Background Checks*

1. Draft legislation to require child care facilities to notify the Health Division, Department of Health and Human Services, when a child care facility hires a new employee, has a new resident who is over the age of 18 years, or has a new participant in an outdoor youth program who is over the age of 18 years to ensure background checks are completed on all employees, residents, and outdoor youth program participants within the current statutory time frame outlined in *Nevada Revised Statutes* (NRS) 432A.170. **(BDR 38–61)**

##### *Domestic Sex Trafficking of Minors, Child Prostitution, and the Prosecution of Persons Accused of Pandering and Soliciting Children*

2. Draft legislation to provide a definition of “sexually exploited child” in Chapter 62A (“General Provisions” related to juvenile justice) of NRS. A sexually exploited child would be defined as a child under the age of 18 years who is engaged or attempting to engage in prostitution.

Additionally, the legislation would:

- a. Amend statutes relating to a child in need of supervision (NRS 62B.320) to include a sexually exploited child;
- b. Amend statutes relating to the release of a child alleged to be in need of supervision (NRS 62C.050) to include an exception for a sexually exploited child; and
- c. Amend statutes relating to the initial admonition and referral of a child in need of supervision (NRS 62E.410) to include an exception for a sexually exploited child so that such a child is not subject to the initial admonition of the court. **(BDR 5–62)**

3. Draft legislation to establish the crime of sex trafficking of a minor similar to statutes involving involuntary servitude, but without any requirement of proof of forced labor or services. The new crime must identify children who are commercially sexually exploited as sex trafficking victims.

Additionally, the legislation would:

- a. Revise the definition of “victim” for purposes of determining eligibility for aid to certain victims of crime (NRS 217.070) to make victims of sex trafficking of a minor eligible for such aid;
- b. Include victims of sex trafficking of a minor in existing rape shield provisions (NRS 50.090); and
- c. Provide the same statute of limitation for victims of sex trafficking of a minor, as is provided for victims of sexual assault or sexual abuse, and to provide for the same removal of the statute of limitation or extension as provided for those crimes pursuant to NRS 171.083 and 171.095. **(BDR 4–63)**

#### *Incarceration and Prosecution of Juveniles*

4. Draft legislation to amend statutes relating to conditions and limitations on detaining a child in certain facilities (NRS 62C.030) to allow juveniles who are transferred to adult court for criminal proceedings to petition the court for temporary placement in a juvenile detention facility pending the outcome of the proceedings. **(BDR 5–64)**
5. Draft legislation to require any child under the age of 18 years who is sentenced as an adult to a term of imprisonment for committing a crime to serve the term in a juvenile detention facility until the child reaches the age of 18 years, unless dangerous to another juvenile. **(BDR 5–64)**
6. Draft legislation to amend statutes relating to direct filing of charges against a juvenile for criminal proceedings as an adult (NRS 62B.330) so that direct filing may only occur if the child is at least 16 years of age and the crime charged is murder, attempted murder, sexual assault, or attempted sexual assault. **(BDR 5–64)**
7. Draft legislation to make certain juvenile offenders who are sentenced to terms of imprisonment as an adult eligible for parole after a certain number of years. Proposed language is as follows:

#### **Parole Eligibility for Youthful Offenders**

1. A prisoner who was sentenced to a cumulative term of imprisonment of 10 or more years for one or more non-homicide offenses committed while he or she was less than 18 years of age at the time that

the prisoner committed the offense(s) for which the prisoner was imprisoned, upon reaching 25 years of age, may be immediately eligible for parole under this section, if:

(a) The prisoner has completed a program of general education or an industrial or vocational training program, unless this requirement has been waived because of the juvenile offender's disability as shown by the juvenile offender's previous individual education plan, 504 accommodation plan under section 504 of the federal Rehabilitation Act of 1973, or by a psychological evaluation;

(b) The prisoner has not been identified as a member of a group that poses a security threat pursuant to the procedures for identifying security threats established by the Department of Corrections; and

(c) The prisoner has not, within the immediately preceding 24 months:

(1) Committed a major violation of the regulations of the Department of Corrections; or

(2) Been housed in disciplinary segregation.

2. The Board shall prescribe any conditions necessary for the orderly conduct of the parolee upon his or her release.

3. Each parolee so released must be supervised closely by the Division, in accordance with the plan for supervision developed by the Chief pursuant to NRS 213.122.

4. If the Board finds, at least 2 months before a prisoner would otherwise be paroled pursuant to subsection 1 that there is a reasonable probability that the prisoner will be a danger to public safety while on parole, the Board may require the prisoner to serve the balance of his or her sentence and not grant the parole provided for in subsection 1. If, pursuant to this subsection, the Board does not grant the parole provided for in subsection 1, the Board shall provide to the prisoner a written statement of its reasons for denying parole.

5. If the prisoner is the subject of a lawful request from another law enforcement agency that the prisoner be held or detained for release to that agency, the prisoner must not be released on parole, but released to that agency.

6. If the Division has not completed its establishment of a program for the prisoner's activities during his or her parole pursuant to this section, the prisoner must be released on parole as soon as practicable after the prisoner's program is established. **(BDR 5-64)**

### *Protection of Children*

8. Draft legislation to require child welfare agencies to establish procedures to protect children and youth in the child welfare system from identity theft. **(BDR 38-65)**

9. Draft legislation to streamline and clarify the process and authority to substantiate abuse and neglect allegations. **(BDR 38–66)**
10. Draft legislation to amend statutes relating to action taken by an agency upon receipt of report of possible abuse or neglect (NRS 432B.260) to allow referrals for differential response when the child is under the age of 5 years. **(BDR 38–73)**
11. Draft legislation to amend statutes relating to the placement of a child in protective custody (NRS 432B.390) to require one of the following parties to obtain a warrant prior to placement: (a) an agent or an officer of a law enforcement agency; (b) an officer of the local juvenile probation department or the local department of juvenile services; or (c) a designee of an agency that provides child welfare services. **(BDR 38–73)**
12. Draft legislation to require that all child welfare advisory groups or committees, formed pursuant to law, include a representative of natural parents of children in the child welfare system unless prohibited or limited. **(BDR 38–67)**
13. Draft legislation to require that all agency improvement plans be made available to the public and posted on the Internet (NRS 432B.216). **(BDR 38–67)**
14. Draft legislation to revise statutes relating to child death review teams to consolidate the two State-level teams (NRS 432B.408 and 432B.409) into one State-level team and to specifically allow for the use of de-identified, aggregate data for purposes of research or prevention (NRS 432B.407 and 432B.4095). **(BDR 38–67)**
15. Draft legislation to define “reasonable efforts” in Chapter 432B (“Protection of Children From Abuse and Neglect”) of NRS. **(BDR 38–68)**
16. Draft legislation to amend statutes relating to the preservation and reunification of a family and child (NRS 432B.393) to require a court to make case-specific judicial determinations regarding reasonable efforts. **(BDR 38–68)**
17. Draft legislation to amend statutes relating to the preservation and reunification of a family and child (subsection 3 of NRS 432B.393) to more closely align with the federal statutes, which allow for a waiver of reasonable efforts in certain circumstances and clearly state that the courts determine whether the child welfare agencies are required to make reasonable efforts to preserve and reunify a family and child. **(BDR 38–68)**
18. Draft legislation to amend statutes relating to the execution and contents of a petition alleging that a child is in need of protection (subsection 4(b) of NRS 432B.510) to provide that the residence of a child refers to the address where the child resided before being taken into protective custody. **(BDR 38–69)**

19. Draft legislation to amend statutes relating to the adjudicatory hearing on a petition alleging that a child is in need of protection (NRS 432B.530) to increase the time allowed for the hearing from 30 days to 60 days. **(BDR 38-69)**
20. Draft legislation to amend statutes relating to the annual and semiannual review by a court of placement of a child (NRS 432B.580 and 432B.590) to revise language which requires that foster parents, preadoptive parents, and biological parents have the right to be heard in court proceedings, to match language included in federal law. **(BDR 38-69)**
21. Draft legislation to amend statutes relating to the annual hearing on the disposition of a case of a child in need of protection (NRS 432B.590) to require the court to make determinations regarding out-of-state placement and transition services. **(BDR 38-69)**

### COMMITTEE ACTIONS

In addition, the Committee directed its staff to:

22. Draft a letter to Nevada Governor Brian Sandoval urging the approval of recommendations contained in the *Nevada Operations of Multi-Automated Data Systems (NOMADS) Child Support Enforcement Application Assessment Project NOMADS CSE System Maintenance Plan & Modernization Roadmap*, dated October 6, 2011, as prepared by Policy Studies Inc.

*NOTE: During the work session on this item, the Committee voted to draft legislation to implement the recommendations contained in the report. Subsequent to the meeting, additional information was received from the Department of Health and Human Services indicating the agency planned to move forward with the recommendations in its upcoming budget. Under the advice of counsel, the Chair directed staff to write a letter in support of this recommendation, rather than request a bill on the Committee's behalf.*

23. Draft a letter to the Chairs of the Senate and Assembly Committees on Judiciary urging the further study of the indiscriminate use of physical restraints on juveniles during court proceedings.
24. Draft a letter to Nevada Attorney General Catherine Cortez Masto urging the examination and utilization of the policy recommendations contained in the Protected Innocence Initiative's Analysis and Recommendations for Nevada, as prepared by Shared Hope International, in any potential legislation requested by that Office to address sex trafficking of minors.
25. Draft a letter to the Chairs of the appropriate Senate and Assembly Standing Committees and include a statement in the Committee's final report urging further examination of the following recommendations:

- a. Create a remediation plan, with concern for causes of disproportionality, to include: (1) legislative oversight; (2) policy recommendations; and (3) evidence-based practices, to be utilized by police departments, school officials, service providers, and others interacting with affected populations;
- b. Create a pilot program to ensure adequate case management for youth with severe emotional disturbances involved with out-of-community placements;
- c. Adopt Positive Behavioral Interventions and Supports, as a part of standards addressing the behavioral health care needs of children, and develop data systems to track school climate programs and discipline;
- d. Require the tracking of point-of-entry statistics for youth interacting with the juvenile justice system, including status offenses;
- e. Consider recommendations that will ensure that instances of expulsion relating to “immoral conduct” and bullying are not illegally infringing on the First Amendment rights of students; and
- f. Create a more comprehensive approach to addressing issues relating to school discipline by identifying school-based trends as an inappropriate introduction into the juvenile justice system, and create policies that will prevent students from improper introduction into the juvenile justice system through the school-to-prison pipeline.

**REPORT TO THE 77TH SESSION OF THE NEVADA LEGISLATURE  
BY THE LEGISLATIVE COMMITTEE ON CHILD WELFARE  
AND JUVENILE JUSTICE**

**I. INTRODUCTION**

The Legislative Committee on Child Welfare and Juvenile Justice, in compliance with *Nevada Revised Statutes* (NRS) 218E.700 through 218E.730 (Appendix A), evaluates and reviews a broad spectrum of issues related to the provision of child welfare services and juvenile justice administration throughout the State. The Committee was established in 2009 to investigate topics including, but not limited to: (1) child welfare service programs; (2) licensing and reimbursement for foster care providers and mental health services; (3) compliance with federal child welfare requirements; (4) coordination of juvenile justice community-based programs and services; (5) the availability of treatment programs; (6) representation and treatment of minority youth in the juvenile justice system; (7) gender-specific services; and (8) the quality of care provided in State and local institutions.

**Members**

The Committee for the 2011-2012 Interim was composed of six members:

Senator Valerie Wiener, Chair  
Assemblyman Jason M. Frierson, Vice Chair  
Senator Greg Brower  
Senator Ruben J. Kihuen  
Assemblywoman Teresa Benitez-Thompson  
Assemblyman John Hambrick

**Staff**

The following Legislative Counsel Bureau (LCB) staff members provided support for the Committee:

Kelly S. Gregory, Senior Research Analyst, Research Division  
Risa B. Lang, Chief Deputy Legislative Counsel, Legal Division  
Stephanie Travis, Deputy Legislative Counsel, Legal Division  
Rex Goodman, Principal Deputy Fiscal Analyst, Fiscal Analysis Division  
Karen Hoppe, Program Analyst, Fiscal Analysis Division  
Lisa Gardner, Senior Research Secretary, Research Division

The Committee held a total of four meetings, including a work session. All public hearings were conducted through simultaneous videoconference between legislative meeting rooms at the Grant Sawyer State Office Building in Las Vegas, Nevada, and the Legislative Building in

Carson City, Nevada. The summaries of testimony and exhibits are available online at: <http://leg.state.nv.us/Interim/76th2011/Committee/StatCom/ChildWelfare/?ID=10>.

A summary of the status of the recommendations for legislation made by the Committee during the 2009-2010 Interim and considered by the 2011 Nevada Legislature is attached as Appendix B.

## **II. ISSUES CONSIDERED AND DISCUSSED DURING THE 2011-2012 LEGISLATIVE INTERIM**

The following is a list of some of the many issues considered and discussed by the Legislative Committee on Child Welfare and Juvenile Justice during the 2011-2012 Interim:

- Audit Report LA12-05, *Department of Health and Human Services, Division of Child and Family Services, 2011*;
- Audit Report LA12-06, *Department of Health and Human Services, Oversight of Child Care Facilities, 2011*;
- Audit Report LA12-08, *Review of Governmental and Private Facilities for Children, October 2011*;
- Bullying, cyber-bullying, harassment, intimidation, and the possession, transmission, and distribution of sexual images;
- Child abuse prevention initiatives;
- Child support enforcement;
- Child welfare and juvenile justice crossover;
- Child welfare funding;
- Children's mental health care;
- Disproportionate minority contact in child welfare and juvenile justice systems;
- Domestic sex trafficking of minors, child prostitution, and the prosecution of persons accused of pandering and soliciting children;
- Nevada Supreme Court's Statewide Committee on Juvenile Justice Reform;
- Nevada Youth Risk Behavior Survey report;
- Nevada's Court Improvement Program;
- Nevada's Differential Response program for responding to allegations of child abuse and neglect;
- Outcomes of the southern Nevada child welfare summit;
- Programs to address risk factors for youth, including homelessness and food insecurity;

- Revision of laws governing the protection of children;
- Sentencing of juvenile offenders as adults;
- Youth aging out of foster care; and
- Youth gang activity and graffiti vandalism.

### **III. DISCUSSION OF TESTIMONY AND RECOMMENDATIONS RELATED TO CHILD WELFARE AND JUVENILE JUSTICE FOR THE STATE OF NEVADA**

A variety of issues were addressed at the Committee’s meetings. This section provides background information and discusses only those issues for which the Committee made recommendations. These issues relate to:

- A. Child Care Facility Background Checks;
- B. Domestic Sex Trafficking of Minors, Child Prostitution, and Prosecution of Persons Accused of Pandering and Soliciting Children;
- C. Incarceration and Prosecution of Juveniles;
- D. Laws Governing the Protection of Children;
- E. Bullying, Cyber-Bullying, Harassment and Intimidation, and School Discipline;
- F. Child Support Enforcement;
- G. Disproportionate Minority Contact in Child Welfare and Juvenile Justice Systems; and
- H. Children’s Mental Health.

At the fourth meeting, members conducted a work session at which they adopted 21 recommendations to be included in ten bill draft requests (BDRs). The BDRs concern the revision of laws related to the protection of children; background checks for certain providers of child care; protection of juvenile victims of domestic sex trafficking; and sentencing and incarceration of juvenile offenders (Appendix D). Lastly, members authorized the Chair to send letters on behalf of the Committee on various topics (Appendix C).

#### **A. CHILD CARE FACILITY BACKGROUND CHECKS**

During the 2009-2010 Interim, the Committee recommended that legislation be drafted to require that background checks be obtained periodically for persons employed at a child care facility. The recommendation was enacted into law by the 2011 Nevada Legislature in Assembly Bill 536 (Chapter 514, *Statutes of Nevada*). During the Committee’s first meeting of the 2011-2012 Interim, the Health Division, Department of Health and Human Services (DHHS), indicated that some of the background checks were not being completed in a timely manner because there was no requirement in the law that child care facilities notify the Division when a new employee, resident, or participant in an outdoor youth program is hired or otherwise joins the facility staff. The Division recommended that the statute be revised to include such a requirement.

Following consideration of the Division’s recommendation, the Committee agreed to:

**Draft legislation to require child care facilities to notify the Health Division, Department of Health and Human Services, when a child care facility hires a new employee, has a new resident who is over the age of 18 years, or has a new participant in an outdoor youth program who is over the age of 18 years to ensure background checks are completed on all employees, residents, and outdoor youth program participants within the current statutory time frame outlined in NRS 432A.170. (BDR 38–61)**

**B. DOMESTIC SEX TRAFFICKING OF MINORS, CHILD PROSTITUTION, AND PROSECUTION OF PERSONS ACCUSED OF PANDERING AND SOLICITING CHILDREN**

During the 2009-2010 Interim, the Committee adopted two recommendations concerning the pandering of a child; neither of these were ultimately adopted by the Legislature during the 2011 Session. Members of the academic and legal communities who had participated in discussions on these recommendations presented information on how they had been working together to resolve differences in order to move forward with new legislation for consideration by the 2013 Nevada Legislature. Presenters included Esther Brown, Founder and Executive Director, The Embracing Project; Teresa Lowry, Assistant District Attorney, Family Support, Juvenile and Child Welfare Divisions, Clark County District Attorney’s Office; Alexis Kennedy, Ph.D., Internship Director, Assistant Professor of Criminal Justice, University of Nevada, Las Vegas; and Susan Roske, Chief Deputy Public Defender, Juvenile Division, Clark County Public Defender’s Office.

All parties agreed that youth involved in prostitution are often treated as offenders rather than victims and that statutory modifications were needed to provide youth with more protection under the law. Committee members received a report published by the Protected Innocence Initiative titled “State Report Cards on the Legal Framework of Protection for the Nation’s Children.” The report contained several recommendations for enhancing current laws related to child prostitution and the domestic sex trafficking of minors. Testimony provided by Ms. Lowry and Ms. Roske indicated that Nevada Attorney General, Catherine Cortez Masto, planned to submit an omnibus bill on the topic to the 2013 Nevada Legislature.

In consideration of the testimony received, the Committee agreed to:

**Draft legislation to provide a definition of “sexually exploited child” in Chapter 62A (“General Provisions” related to juvenile justice) of NRS. A sexually exploited child would be defined as a child under the age of 18 years who is engaged or attempting to engage in prostitution.**

**Additionally, the legislation would:**

- a. Amend statutes relating to a child in need of supervision (NRS 62B.320) to include a sexually exploited child;**
- b. Amend statutes relating to the release of a child alleged to be in need of supervision (NRS 62C.050) to include an exception for a sexually exploited child; and**
- c. Amend statutes relating to the initial admonition and referral of a child in need of supervision (NRS 62E.410) to include an exception for a sexually exploited child so that such a child is not subject to the initial admonition of the court. (BDR 5–62)**

**AND**

**Draft legislation to establish the crime of sex trafficking of a minor similar to statutes involving involuntary servitude, but without any requirement of proof of forced labor or services. The new crime must identify children who are commercially sexually exploited as sex trafficking victims.**

**Additionally, the legislation would:**

- a. Revise the definition of “victim” for purposes of determining eligibility for aid to certain victims of crime (NRS 217.070) to make victims of sex trafficking of a minor eligible for such aid;**
- b. Include victims of sex trafficking of a minor in existing rape shield provisions (NRS 50.090); and**
- c. Provide the same statute of limitation for victims of sex trafficking of a minor, as is provided for victims of sexual assault or sexual abuse, and to provide for the same removal of the statute of limitation or extension as provided for those crimes pursuant to NRS 171.083 and 171.095. (BDR 4–63)**

**AND**

**Draft a letter to Nevada Attorney General Catherine Cortez Masto urging the examination and utilization of the policy recommendations contained in the Protected Innocence Initiative’s Analysis and Recommendations for Nevada, as prepared by Shared Hope International, in any potential legislation requested by that Office to address sex trafficking of minors.**

### C. INCARCERATION AND PROSECUTION OF JUVENILES

The Committee received testimony on recent cases decided by the United States Supreme Court relating to the sentencing of juvenile offenders. The two cases discussed, *Roper v. Simmons* (2005) and *Graham v. Florida* (2010), cited scientific research on the human brain that found brain development continued well past adolescence. The Court found that it was unconstitutional and cruel and unusual punishment to impose the death penalty or life in prison without the possibility of parole for nonhomicide juvenile offenders. As a result of these cases, many states are considering revisions to laws governing the incarceration, prosecution, and sentencing of juveniles as adults.

Susan Roske (identified on page 4 of this report) recommended that Nevada consider legislation to allow nonhomicide juvenile offenders who have been sentenced to a term of more than ten years in prison to petition for parole under certain circumstances. In addition, several parties submitted recommendations in writing for the Committee's consideration that were not discussed prior to the work session. After discussing the recommendations submitted during previous testimony and in writing, the Committee took the following actions:

**Draft legislation to amend statutes relating to conditions and limitations on detaining a child in certain facilities (NRS 62C.030) to allow juveniles who are transferred to adult court for criminal proceedings to petition the court for temporary placement in a juvenile detention facility pending the outcome of the proceedings. (BDR 5-64)**

AND

**Draft legislation to require any child under the age of 18 years who is sentenced as an adult to a term of imprisonment for committing a crime to serve the term in a juvenile detention facility until the child reaches the age of 18 years, unless dangerous to another juvenile. (BDR 5-64)**

AND

**Draft legislation to amend statutes relating to direct filing of charges against a juvenile for criminal proceedings as an adult (NRS 62B.330) so that direct filing may only occur if the child is at least 16 years of age and the crime charged is murder, attempted murder, sexual assault, or attempted sexual assault. (BDR 5-64)**

AND

**Draft legislation to make certain juvenile offenders who are sentenced to terms of imprisonment as an adult eligible for parole after a certain number of years. Proposed language is as follows:**

## **Parole Eligibility for Youthful Offenders**

**1. A prisoner who was sentenced to a cumulative term of imprisonment of 10 or more years for one or more non-homicide offenses committed while he or she was less than 18 years of age at the time that the prisoner committed the offense(s) for which the prisoner was imprisoned, upon reaching 25 years of age, may be immediately eligible for parole under this section, if:**

**(a) The prisoner has completed a program of general education or an industrial or vocational training program, unless this requirement has been waived because of the juvenile offender's disability as shown by the juvenile offender's previous individual education plan, 504 accommodation plan under section 504 of the federal Rehabilitation Act of 1973, or by a psychological evaluation;**

**(b) The prisoner has not been identified as a member of a group that poses a security threat pursuant to the procedures for identifying security threats established by the Department of Corrections; and**

**(c) The prisoner has not, within the immediately preceding 24 months:**

**(1) Committed a major violation of the regulations of the Department of Corrections; or**

**(2) Been housed in disciplinary segregation.**

**2. The Board shall prescribe any conditions necessary for the orderly conduct of the parolee upon his or her release.**

**3. Each parolee so released must be supervised closely by the Division, in accordance with the plan for supervision developed by the Chief pursuant to NRS 213.122.**

**4. If the Board finds, at least 2 months before a prisoner would otherwise be paroled pursuant to subsection 1 that there is a reasonable probability that the prisoner will be a danger to public safety while on parole, the Board may require the prisoner to serve the balance of his or her sentence and not grant the parole provided for in subsection 1. If, pursuant to this subsection, the Board does not grant the parole provided for in subsection 1, the Board shall provide to the prisoner a written statement of its reasons for denying parole.**

**5. If the prisoner is the subject of a lawful request from another law enforcement agency that the prisoner be held or detained for release to that agency, the prisoner must not be released on parole, but released to that agency.**

**6. If the Division has not completed its establishment of a program for the prisoner's activities during his or her parole pursuant to this section, the prisoner must be released on parole as**

soon as practicable after the prisoner's program is established.  
(BDR 5-64)

AND

**Draft a letter to the Chairs of the Senate and Assembly Committees on Judiciary urging the further study of the indiscriminate use of physical restraints on juveniles during court proceedings.**

AND

**Draft a letter to the Chairs of the appropriate Senate and Assembly Standing Committees and include a statement in the Committee's final report urging further examination of a recommendation to require the tracking of point-of-entry statistics for youth interacting with the juvenile justice system, including status offenses.**

#### **D. LAWS GOVERNING THE PROTECTION OF CHILDREN**

In 2011, the Nevada Legislature adopted Senate Concurrent Resolution No. 5 (File No. 43, *Statutes of Nevada*). The resolution directed the Legislative Commission to appoint a committee to conduct an interim study of the system and laws governing the protection of children in Nevada in consultation with representatives of the system of child welfare, including child welfare agencies and organizations that provide services, as well as children and families who receive services. Rather than appoint a new committee to perform the interim study, the Legislative Commission directed the Legislative Committee on Child Welfare and Juvenile Justice to study the child welfare system as directed by S.C.R. 5.

At its first meeting, the Committee members received a briefing from Denise Tanata Ashby, J.D., Director, Children's Advocacy Alliance, on activities of a working group that had formed within Nevada's child welfare community to address potential revisions to laws governing the protection of children. The working group focused on modifying specific sections within Chapter 432B ("Protection of Children From Abuse and Neglect") of NRS in order to make the Chapter more consistent with federal law, ensure current practices in the child welfare system and corresponding statutes and regulations were aligned, and promote the goal of family preservation and reunification.

As the interim progressed, Ms. Ashby returned to the Committee to provide status updates on the progress of the working group and areas where consensus was being reached to change particular sections of Chapter 432B ("Protection of Children From Abuse and Neglect") of NRS. Six subgroups were formed to address specific priorities, including: child welfare agencies; court partners; parent groups; the Courts Catalyzing Change program; service providers; and the community at large.

At the Committee's work session, Ms. Ashby provided a final list of recommendations agreed upon by the various interested parties. The Committee discussed the recommendations made by the working group and approved the following actions:

**Draft legislation to require child welfare agencies to establish procedures to protect children and youth in the child welfare system from identity theft. (BDR 38-65)**

**AND**

**Draft legislation to streamline and clarify the process and authority to substantiate abuse and neglect allegations. (BDR 38-66)**

**AND**

**Draft legislation to amend statutes relating to action taken by an agency upon receipt of report of possible abuse or neglect (NRS 432B.260) to allow referrals for differential response when the child is under the age of 5 years. (BDR 38-73)**

**AND**

**Draft legislation to amend statutes relating to the placement of a child in protective custody (NRS 432B.390) to require one of the following parties to obtain a warrant prior to placement: (a) an agent or an officer of a law enforcement agency; (b) an officer of the local juvenile probation department or the local department of juvenile services; or (c) a designee of an agency that provides child welfare services. (BDR 38-73)**

**AND**

**Draft legislation to require that all child welfare advisory groups or committees, formed pursuant to law, include a representative of natural parents of children in the child welfare system unless prohibited or limited. (BDR 38-67)**

**AND**

**Draft legislation to require that all agency improvement plans be made available to the public and posted on the Internet (NRS 432B.216). (BDR 38-67)**

**AND**

**Draft legislation to revise statutes relating to child death review teams to consolidate the two State-level teams (NRS 432B.408 and 432B.409) into one State-level team and to specifically allow for the use of de-identified, aggregate data for purposes of research or prevention (NRS 432B.407 and 432B.4095). (BDR 38–67)**

**AND**

**Draft legislation to define “reasonable efforts” in Chapter 432B (“Protection of Children From Abuse and Neglect”) of NRS. (BDR 38–68)**

**AND**

**Draft legislation to amend statutes relating to the preservation and reunification of a family and child (NRS 432B.393) to require a court to make case-specific judicial determinations regarding reasonable efforts. (BDR 38–68)**

**AND**

**Draft legislation to amend statutes relating to the preservation and reunification of a family and child (subsection 3 of NRS 432B.393) to more closely align with the federal statutes, which allow for a waiver of reasonable efforts in certain circumstances and clearly state that the courts determine whether the child welfare agencies are required to make reasonable efforts to preserve and reunify a family and child. (BDR 38–68)**

**AND**

**Draft legislation to amend statutes relating to the execution and contents of a petition alleging that a child is in need of protection (subsection 4(b) of NRS 432B.510) to provide that the residence of a child refers to the address where the child resided before being taken into protective custody. (BDR 38-69)**

**AND**

**Draft legislation to amend statutes relating to the adjudicatory hearing on a petition alleging that a child is in need of protection (NRS 432B.530) to increase the time allowed for the hearing from 30 days to 60 days. (BDR 38-69)**

**AND**

**Draft legislation to amend statutes relating to the annual and semiannual review by a court of placement of a child (NRS 432B.580 and 432B.590) to**

revise language which requires that foster parents, preadoptive parents, and biological parents have the right to be heard in court proceedings, to match language included in federal law. (BDR 38–69)

AND

**Draft legislation to amend statutes relating to the annual hearing on the disposition of a case of a child in need of protection (NRS 432B.590) to require the court to make determinations regarding out-of-state placement and transition services. (BDR 38–69)**

Additional details on each of these recommendations can be found beginning on page 11 of the minutes of the Committee’s April 4, 2012, meeting, which are available at the following link: <http://leg.state.nv.us/Interim/76th2011/Minutes/ChildWelfare//IM-ChildWelfare-040412-10548.pdf>

#### **E. BULLYING, CYBER-BULLYING, HARASSMENT AND INTIMIDATION, AND SCHOOL DISCIPLINE**

Testimony before the Committee indicated that progress had been made following legislative action over the past few sessions on bullying, cyber-bullying, harassment and intimidation in schools. A variety of community partners provided information on public relations efforts both inside and outside the school system to raise awareness of the issue and provide students with resources to prevent and combat bullying. Juvenile justice administrators and members of the judiciary expressed concerns with the current referral system for certain offenses from the schools to the juvenile justice system. Referrals for offenses, such as bullying and truancy, were introducing more youth to the juvenile justice system; additional testimony indicated that youth who were suspended or expelled from school at any point were less likely to finish school.

In order to address these issues, a representative of the American Civil Liberties Union (ACLU) provided recommendations to address Positive Behavioral Interventions and Supports, expulsion, and issues relating to school discipline as an introduction to the juvenile justice system. Following discussion on this issue, the Committee approved the following action:

**Draft a letter to the Chairs of the appropriate Senate and Assembly Standing Committees and include a statement in the Committee’s final report urging further examination of the following recommendations:**

- a. Adopt Positive Behavioral Interventions and Supports, as a part of standards addressing the behavioral health care needs of children, and develop data systems to track school climate programs and discipline;**

- b. Consider recommendations that will ensure that instances of expulsion relating to “immoral conduct” and bullying are not illegally infringing on the First Amendment rights of students; and
- c. Create a more comprehensive approach to addressing issues relating to school discipline by identifying school-based trends as an inappropriate introduction into the juvenile justice system, and create policies that will prevent students from improper introduction into the juvenile justice system through the school-to-prison pipeline.

## F. CHILD SUPPORT ENFORCEMENT

The Committee received a presentation on child support enforcement in Nevada from Teresa Lowry (identified on page 4 of this report) and Jeffrey J. Witthun, Assistant Director, Family Support Division, Clark County District Attorney’s Office, who provided the Committee with information on Nevada’s ranking among the states in certain federal performance measures for child support enforcement and collection. Testimony indicated the State’s success in reaching collection and enforcement goals determines its eligibility for federal incentive grant funds for program improvement. Further, Nevada’s rankings in certain areas, and thus its eligibility for additional funds, were hampered by the technology being used within the State to manage child support enforcement cases. Ms. Lowry provided a copy of a study performed by Policy Studies Inc., which had been authorized by the 2009 Nevada Legislature to examine the maintenance and potential expansion of the computer system used to manage child support collections. She advocated for the adoption of the report’s recommendations in order to maximize Nevada’s enforcement and collection rates and thus become eligible for additional funds.

Upon consideration of this recommendation, the Committee approved the following action:

**Draft a letter to Nevada Governor Brian Sandoval urging the approval of recommendations contained in the *Nevada Operations of Multi-Automated Data Systems (NOMADS) Child Support Enforcement Application Assessment Project NOMADS CSE System Maintenance Plan & Modernization Roadmap*, dated October 6, 2011, as prepared by Policy Studies Inc.**

*NOTE: During the work session on this item, the Committee voted to draft legislation to implement the recommendations contained in the report. Subsequent to the meeting, additional information was received from the Department of Health and Human Services indicating the agency planned to move forward with the recommendations in its upcoming budget. Under the advice of counsel, the Chair directed staff to write a letter in support of this recommendation, rather than request a bill on the Committee’s behalf.*

## **G. DISPROPORTIONATE MINORITY CONTACT IN CHILD WELFARE AND JUVENILE JUSTICE SYSTEMS**

Presentations from national, State and local experts on disproportionate contact with, and disparate outcomes for, minority participants in child welfare and juvenile justice systems were heard at two Committee meetings. Representatives of the National Council of Juvenile and Family Court Judges provided background information on disproportionate minority contact (DMC) in the juvenile justice system from the national perspective and gave an overview of judicial efforts at the state level to address inequities. They also discussed the Courts Catalyzing Change initiative, while the Honorable Deborah E. Schumacher, Family Division, Department 5, Second Judicial District Court, Washoe County, provided details on how the initiative is being implemented in her court.

Staff from Nevada's DHHS provided data on the levels of DMC occurring within the juvenile justice agencies in the counties. Representatives of Clark County's Department of Juvenile Justice Services and Washoe County's Department of Juvenile Services testified on their agencies' efforts to identify and address the prevalence of DMC within the populations served by those organizations. A representative of Casey Family Programs, Dr. Ralph Bayard, and Nina Williams-Mbengue of the National Conference of State Legislatures, provided information on efforts within various states to address DMC in child welfare systems.

The ACLU recommended that a remediation plan be created to identify and address disproportionality in Nevada's child welfare and juvenile justice systems. Upon consideration of this recommendation, the Committee took the following action:

**Draft a letter to the Chairs of the appropriate Senate and Assembly Standing Committees and include a statement in the Committee's final report urging further examination of recommendations to create a remediation plan, with concern for causes of disproportionality, to include: (1) legislative oversight; (2) policy recommendations; and (3) evidence-based practices, to be utilized by police departments, school officials, service providers, and others interacting with affected populations.**

## **H. CHILDREN'S MENTAL HEALTH**

Various State and local agencies, service providers, and members of the judiciary testified regarding the provision of mental health care services to youth involved in Nevada's child welfare and juvenile justice systems. Committee members were provided with demographic information on the youth served, as well as detailed information on the services provided to foster home youth and youthful offenders.

Associate Justices James W. Hardesty and Nancy M. Saitta of the Nevada Supreme Court also provided testimony on this issue as it related to their involvement in the Supreme Court's Commission on Statewide Juvenile Justice Reform. The justices echoed concerns voiced in

previous hearings on the trend toward out-of-state placement for mental health care for certain groups of juvenile offenders. They opined mental health services provided out-of-state are more costly and have negative impacts on youth and their families.

The ACLU recommended that a pilot program be created to address youth with severe emotional disturbances. Following deliberations on this issue the Committee voted to recommend the following:

**Draft a letter to the Chairs of the appropriate Senate and Assembly Standing Committees and include a statement in the Committee's final report urging further examination of the recommendation to create a pilot program to ensure adequate case management for youth with severe emotional disturbances involved with out-of-community placements.**

#### IV. CONCLUSION

This report presents a summary of the bill drafts requested by the members of the Legislative Committee on Child Welfare and Juvenile Justice for discussion before the 2013 Nevada Legislature. In addition, this document provides information identifying certain other issues that were addressed during the 2011-2012 Interim. Persons wishing to have more specific information concerning these issues may find it useful to review the Summary Minutes and Action Report and related exhibits for the Committee's meetings at: <http://leg.state.nv.us/Interim/76th2011/Committee/StatCom/ChildWelfare/?ID=10>.

**V. APPENDICES**

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**APPENDIX A**

*Nevada Revised Statutes* 218E.700 through 218E.730



## ***Nevada Revised Statutes 218E.700 through 218E.730***

**NRS 218E.700 “Committee” defined.** As used in [NRS 218E.700](#) to [218E.730](#), inclusive, unless the context otherwise requires, “Committee” means the Legislative Committee on Child Welfare and Juvenile Justice.

(Added to NRS by [2009, 2545](#))

### **NRS 218E.705 Creation; membership; budget; officers; terms; vacancies.**

1. The Legislative Committee on Child Welfare and Juvenile Justice is hereby created. The membership of the Committee consists of three members of the Senate and three members of the Assembly, appointed by the Legislative Commission.
2. The Legislative Commission shall review and approve the budget and work program for the Committee and any changes to the budget or work program.
3. The Legislative Commission shall select the Chair and Vice Chair of the Committee from among the members of the Committee. After the initial selection, each Chair and Vice Chair holds office for a term of 2 years commencing on July 1 of each odd-numbered year. The office of Chair of the Committee must alternate each biennium between the Houses. If a vacancy occurs in the office of Chair or Vice Chair, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.
4. A member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve after the general election until the next regular or special session convenes.
5. A vacancy on the Committee must be filled in the same manner as the original appointment for the remainder of the unexpired term.

(Added to NRS by [2009, 2545](#); A [2011, 3233](#))

### **NRS 218E.710 Meetings; quorum; compensation, allowances and expenses of members.**

1. Except as otherwise ordered by the Legislative Commission, the members of the Committee shall meet not earlier than November 1 of each odd-numbered year and not later than August 31 of the following even-numbered year at the times and places specified by a call of the Chair or a majority of the Committee.
2. The Director or the Director’s designee shall act as the nonvoting recording Secretary of the Committee.
3. Four members of the Committee constitute a quorum, and a quorum may exercise all the power and authority conferred on the Committee.
4. Except during a regular or special session, for each day or portion of a day during which a member of the Committee attends a meeting of the Committee or is otherwise engaged in the business of the Committee, the member is entitled to receive the:
  - (a) Compensation provided for a majority of the Legislators during the first 60 days of the preceding regular session;
  - (b) Per diem allowance provided for state officers and employees generally; and
  - (c) Travel expenses provided pursuant to [NRS 218A.655](#).
5. All such compensation, per diem allowances and travel expenses must be paid from the Legislative Fund.

(Added to NRS by [2009, 2546](#); A [2011, 3233](#))

**NRS 218E.715 General duties.** The Committee shall evaluate and review issues relating to:

1. The provision of child welfare services in this State, including, without limitation:

- (a) Programs for the provision of child welfare services;
- (b) Licensing and reimbursement of providers of foster care;
- (c) Mental health services; and
- (d) Compliance with federal requirements regarding child welfare; and

2. Juvenile justice in this State, including, without limitation:

- (a) The coordinated continuum of care in which community-based programs and services are combined to ensure that health services, substance abuse treatment, education, training and care are compatible with the needs of each juvenile in the juvenile justice system;
- (b) Individualized supervision, care and treatment to accommodate the individual needs and potential of the juvenile and the juvenile's family, and treatment programs which integrate the juvenile into situations of living and interacting that are compatible with a healthy, stable and familial environment;
- (c) Programs for aftercare and reintegration in which juveniles will continue to receive treatment after their active rehabilitation in a facility to prevent the relapse or regression of progress achieved during the recovery process;
- (d) Overrepresentation and disparate treatment of minorities in the juvenile justice system, including, without limitation, a review of the various places where bias may influence decisions concerning minorities;
- (e) Gender-specific services, including, without limitation, programs for female juvenile offenders which consider female development in their design and implementation and which address the needs of females, including issues relating to:
  - (1) Victimization and abuse;
  - (2) Substance abuse;
  - (3) Mental health;
  - (4) Education; and
  - (5) Vocational and skills training;
- (f) The quality of care provided for juvenile offenders in state institutions and facilities, including, without limitation:
  - (1) The qualifications and training of staff;
  - (2) The documentation of the performance of state institutions and facilities;
  - (3) The coordination and collaboration of agencies; and
  - (4) The availability of services relating to mental health, substance abuse, education, vocational training and treatment of sex offenders and violent offenders;
- (g) The feasibility and necessity for the independent monitoring of state institutions and facilities for the quality of care provided to juvenile offenders; and
- (h) Programs developed in other states which provide a system of community-based programs that place juvenile offenders in more specialized programs according to the needs of the juveniles.

(Added to NRS by [2009, 2546](#))

**NRS 218E.720 General powers.**

1. The Committee may:

(a) Conduct investigations and hold hearings in connection with its duties pursuant to [NRS 218E.715](#);

(b) Request that the Legislative Counsel Bureau assist in the research, investigations, hearings and reviews of the Committee; and

(c) Propose recommended legislation concerning child welfare and juvenile justice to the Legislature.

2. The Committee shall, on or before January 15 of each odd-numbered year, submit to the Director for transmittal to the Legislature a report concerning the evaluation and review conducted pursuant to [NRS 218E.715](#).

(Added to NRS by [2009, 2547](#); A [2011, 3233](#))

**NRS 218E.725 Administration of oaths; deposition of witnesses; issuance and enforcement of subpoenas.**

1. If the Committee conducts investigations or holds hearings pursuant to [NRS 218E.720](#):

(a) The Chair of the Committee or, in the Chair's absence, a member designated by the Committee may administer oaths.

(b) The Chair of the Committee may cause the deposition of witnesses, residing either within or without the State, to be taken in the manner prescribed by rule of court for taking depositions in civil actions in the district courts.

(c) The Chair of the Committee may issue subpoenas to compel the attendance and testimony of witnesses and the production of books, papers, accounts, department records and other documents.

2. If any witness fails or refuses to attend or testify or to produce the books, papers, accounts, department records or other documents required by the subpoena, the Chair of the Committee may report the failure or refusal to the district court by a petition which:

(a) Sets forth that:

(1) Due notice has been given of the time and place of the attendance of the witness or the production of the required books, papers, accounts, department records or other documents;

(2) The witness has been subpoenaed by the Committee pursuant to this section; and

(3) The witness has failed or refused to attend or testify or to produce the books, papers, accounts, department records or other documents required by the subpoena before the Committee named in the subpoena; and

(b) Asks for an order of the court compelling the witness to attend and testify or to produce the required books, papers, accounts, department records or other documents before the Committee.

3. Upon such petition, the court shall:

(a) Enter an order directing the witness:

(1) To appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order; and

(2) To show cause why the witness has not attended or testified or produced the required books, papers, accounts, department records or other documents before the Committee; and

(b) Serve a certified copy of the order upon the witness.

4. If it appears to the court that the subpoena was regularly issued by the Committee, the court shall enter an order that the witness:

(a) Must appear before the Committee at the time and place fixed in the order;

(b) Must testify or produce the required books, papers, accounts, department records or other documents; and

(c) Upon failure to obey the order, must be dealt with as for contempt of court.

(Added to NRS by [2009, 2547](#); A [2011, 3234](#))

**NRS 218E.730 Fees and mileage for witnesses.**

1. Each witness who appears before the Committee by its order, except a state officer or employee, is entitled to receive for such attendance the fees and mileage provided for witnesses in civil cases in the courts of record of this State.

2. The fees and mileage must be audited and paid upon the presentation of proper claims sworn to by the witness and approved by the Secretary and Chair of the Committee.

(Added to NRS by [2009, 2548](#))

## **APPENDIX B**

Status of Bill Draft Requests from the 2009-2010 Interim



**STATUS OF BILL DRAFT REQUESTS  
FROM THE 2009-2010 INTERIM**

<b>BDR</b>	<b>SUMMARY</b>	<b>BILL</b>	<b>STATUS</b>
38—196	Establishes provisions relating to assistance for certain guardians.	A.B. 110	Chapter 121, <i>Statutes of Nevada 2011</i>
11—197	Revises provisions relating to adoption.	A.B. 111	Chapter 36, <i>Statutes of Nevada 2011</i>
38—198	Revises provisions relating to the care of certain children during disasters.	S.B. 113	Chapter 318, <i>Statutes of Nevada 2011</i>
38—199	Revises provisions relating to the release of certain records of children in the custody of an agency which provides child welfare services.	S.B. 112	Chapter 230, <i>Statutes of Nevada 2011</i>
15—200	Revises penalties for certain crimes relating to children.	A.B. 112	Failed
38—201	Revises provisions relating to background checks of certain persons who work with children.	A.B. 536	Chapter 514, <i>Statutes of Nevada 2011</i>



## **APPENDIX C**

Letters Approved by the Committee at its Final Meeting and Work Session



VALERIE WIENER

SENATOR

Clark No. 3

ASSISTANT MAJORITY LEADER

COMMITTEES:

**Chair**

Judiciary

**Vice Chair**

Health and Human Services

**Member**

Education

Select Committee on Economic  
Growth and Employment



# State of Nevada Senate

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The Honorable Brian Sandoval  
Governor of Nevada  
101 North Carson Street, Suite 1  
Carson City, Nevada 89701-4786

July 23, 2012

Dear Governor Sandoval,

At its meeting on May 9, 2012, the Legislative Committee on Child Welfare and Juvenile Justice (*Nevada Revised Statutes* 218E.705) voted to support the recommendations contained in the assessment of the current Child Support Enforcement Program (Title IV-D of the Social Security Act) component of Nevada Operations of Multi-Automated Data Systems (NOMADS). The assessment, completed by Policy Studies, Inc. and published on October 6, 2011, recommends maintenance and eventual modernization of the program to sustain Nevada's child support efforts.

The Committee heard testimony from members of the legal community who use the system to collect child support from noncustodial parents and disburse it to children and families in Nevada. A fully functioning system is essential in improving outcomes and effectively managing child support enforcement cases. System stabilization and improvement are also critical in ensuring the program is able to maximize eligibility for any potential federal funding.

The Committee members are well aware of our State's current fiscal constraints. Nevertheless, as Chair of the Committee, I am sending this letter to convey the Committee's recommendation that funding be provided for the recommended maintenance and modernization of the program. As you work with the staff of the Department of Health and Human Services to develop the *Executive Budget* for the 2011-2013 Biennium, I urge you to consider this recommendation from the Committee.

Should you have any questions or concerns with regard to this matter, please let me know, or contact the Committee staff person, Kelly S. Gregory, Senior Research Analyst, Research Division of the Legislative Counsel Bureau, at (775) 684-6825.

Sincerely,

A handwritten signature in cursive script that reads "Valerie Wiener".

Senator Valerie Wiener, Chair

Legislative Committee on Child Welfare and Juvenile Justice

VW/av:W122223

cc: Michael J. Willden, Director, Department of Health and Human Services



VALERIE WIENER

SENATOR

Clark No. 3

ASSISTANT MAJORITY LEADER

COMMITTEES:

**Chair**

Judiciary

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The Honorable Catherine Cortez Masto  
Attorney General of Nevada  
100 North Carson Street  
Carson City, Nevada 89701-4717

September 21, 2012

Dear Attorney General Masto,

As you may know, the Legislative Committee on Child Welfare and Juvenile Justice (*Nevada Revised Statutes* [NRS] 218E.705) recently completed its work for the 2011-2012 biennium. One of the topics revisited by the Committee was the continued concern over child prostitution, the domestic sex trafficking of minors, and the prosecution of individuals accused of pandering and soliciting children.

The Committee was fortunate to receive testimony from members of the legal and academic communities in southern Nevada who are working together to strengthen the State's ability to provide assistance to victims and tools for prosecutors. As part of this testimony, members were provided with a copy of a report from the Protected Innocence Initiative titled "Analysis and Recommendations for Nevada," prepared by Shared Hope International. However, given the plethora of issues related to child welfare and juvenile justice examined by the Committee over the interim, the members were not able to devote the time necessary to examine each of the recommendations contained in the report.

The Committee voted to support two separate recommendations for bill drafts to help protect victims of child prostitution at its work session on May 9, 2012. Additionally, the members of the Committee were advised that your Office planned to submit an omnibus bill on the subject. Given this information, the Committee supported a recommendation to urge your Office to examine and utilize the policy recommendations contained in the Protective Innocence Initiative's "Analysis and Recommendations for Nevada" in any potential legislation you might request to address child prostitution, the domestic sex trafficking of minors, and the prosecution of individuals accused of pandering and soliciting children. A copy of the report is enclosed for your review and consideration.

Sincerely,

A handwritten signature in cursive script that reads "Valerie Wiener".

Senator Valerie Wiener, Chair  
Legislative Committee on Child Welfare and Juvenile Justice

VW/st:W122755

Enc.



# PROTECTED INNOCENCE INITIATIVE

STATE ACTION. NATIONAL CHANGE.

## ANALYSIS AND RECOMMENDATIONS NEVADA

### FRAMEWORK ISSUE 1: CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

#### *Legal Components:*

- 1.1 *The state human trafficking law addresses sex trafficking and clearly defines a human trafficking victim as any minor under the age of 18 used in a commercial sex act without regard to use of force, fraud, or coercion, aligning to the federal trafficking law.*
- 1.2 *Commercial sexual exploitation of children (CSEC) is identified as a separate and distinct offense from general sexual offenses, which may also be used to prosecute those who commit commercial sex offenses against minors.*
- 1.3 *CSEC or prostitution statutes refer to the sex trafficking statute to identify the commercially sexually exploited minor as a trafficking victim.*

#### *Legal Analysis<sup>1</sup>:*

- 1.1 *The state human trafficking law addresses sex trafficking and clearly defines a human trafficking victim as any minor under the age of 18 used in a commercial sex act without regard to use of force, fraud, or coercion, aligning to the federal trafficking law.*

Nevada does not have a separate sex trafficking statute, does not address the sex trafficking of minors, and requires “forced labor or services” for all cases of human trafficking.

Nev. Rev. Stat. Ann. § 200.463(1) (Involuntary servitude; penalties)<sup>2</sup> states,

- A person who knowingly subjects, or attempts to subject, another person to forced labor or services by:
- (a) Causing or threatening to cause physical harm to any person;
  - (b) Physically restraining or threatening to physically restrain any person;
  - (c) Abusing or threatening to abuse the law or legal process;

*\* This document has not been fully reviewed and approved by ACLJ.*

<sup>1</sup> Unless otherwise specified, all references to statutes were taken from the Nevada Revised Statutes Annotated (LEXIS through the 26th (2010) Special Sess.) and all federal statutes were taken from United States Code (LEXIS current through PL 112-54, approved 11/12/11).

<sup>2</sup> Nevada’s statutes entitled “Trafficking in Persons,” Nev. Rev. Stat. Ann. § 200.467 (Trafficking in persons for financial gain; penalties) and Nev. Rev. Stat. Ann. § 200.468 (Trafficking in persons for illegal purposes; penalty) deal with human smuggling and the transportation of individuals into Nevada who “do[] not have the legal right to enter or remain in the United States.”



VALERIE WIENER

SENATOR

Clark No. 3

ASSISTANT MAJORITY LEADER

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December 5, 2012

Senator Tick Segerblom, Chair  
Senate Committee on Judiciary  
401 South Carson Street  
Carson City, Nevada 89701-4747

Assemblyman Jason M. Frierson, Chair  
Assembly Committee on Judiciary  
401 South Carson Street  
Carson City, Nevada 89701-4747

Dear Chair Segerblom and Chair Frierson,

As you may know, the Legislative Committee on Child Welfare and Juvenile Justice (*Nevada Revised Statutes* [NRS] 218E.705) recently completed its work for the 2011-2012 biennium. During the course of hearing testimony on various issues related to child welfare and juvenile justice in Nevada, the members were provided with troubling information regarding the indiscriminate shackling of juveniles from detention in court proceedings in Clark County.

According to testimony received, juveniles in detention are required to appear in court in shackles without regard to the child's age, alleged offense, history with the court, or demonstration of need for use of restraints. No state statute currently exists that allows or disallows the use of shackles on juvenile offenders in Nevada, and testimony indicated that the Clark County Juvenile Court was the only court in Nevada with an indiscriminate shackling policy. Indeed, the members learned that even adult defendants appearing in courts in Clark County are not shackled systematically.

As the issue of indiscriminate shackling of juveniles does not appear to be a statewide concern, and the Committee was not able to determine whether the policy would be best addressed through local court rule or statewide legislation, the members felt the issue was ripe for additional study. In consideration of the testimony received, the Committee voted to urge further examination of this issue by your Committee during the 2013 Nevada Legislature.

If you have any questions or concerns regarding this recommendation, please contact me or the Committee Policy Analyst, Kelly Gregory, at 775-684-6825.

Sincerely,

A handwritten signature in cursive script that reads "Valerie Wiener".

Senator Valerie Wiener, Chair  
Legislative Committee on Child Welfare and Juvenile Justice

VW/lg:W122756



VALERIE WIENER

SENATOR

Clark No. 3

ASSISTANT MAJORITY LEADER

COMMITTEES:

**Chair**

Judiciary

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Health and Human Services

**Member**

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Senator Tick Segerblom, Chair  
Senate Committee on Judiciary  
401 South Carson Street  
Carson City, Nevada 89701-4747

December 5, 2012

Assemblyman Jason M. Frierson, Chair  
Assembly Committee on Judiciary  
401 South Carson Street  
Carson City, Nevada 89701-4747

Dear Chair Segerblom and Chair Frierson,

Congratulations on your appointment as Chair of the Standing Committee on Judiciary for the 77th Session of the Nevada Legislature. I am certain that you will find chairing the Committee to be both challenging and rewarding, as I did last session.

The purpose of this letter is to convey to you a set of recommendations for further examination from the Legislative Committee on Child Welfare and Juvenile Justice (*Nevada Revised Statutes* [NRS] 218E.705). As you may be aware, the interim Committee was created in 2009 to study, among other things, the following: child welfare service programs; mental health services; compliance with federal child welfare requirements; the coordination of juvenile justice community-based programs and services; the availability of treatment programs; representation and treatment of minority youth in the juvenile justice system; and the quality of care provided in State and local institutions. As part of the study, recommendations were solicited from key stakeholders interested in improving Nevada's child welfare and juvenile justice systems. Ultimately, the members adopted 21 of those recommendations to be included in ten bill draft requests (BDRs).

Although the Committee was fortunate to receive valuable input from many interested stakeholders, the members were not able to select every recommendation made for a BDR. On April 13, 2012, the American Civil Liberties Union of Nevada (ACLU) submitted a memorandum for consideration at the Committee's final meeting and work session, a copy of which is enclosed. After discussing the information provided in the memorandum, the members voted to urge your Standing Committee on Judiciary to examine several of the recommendations

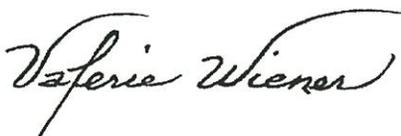
December 5, 2012

in further detail during the upcoming legislative session. The topics suggested by the ACLU that were specifically recommended for further study by your Committee include the following:

- Disproportionate Minority Contact in the Child Welfare and Juvenile Justice Systems;
- Creating a Wraparound Model for Youth with Severe Emotional Disturbances Within the Juvenile Justice System;
- Developing School-Based and -Linked Behavioral Intervention Services for Children with Behavioral Health Needs;
- School Discipline and the “School to Prison Pipeline”; and
- Data Tracking and Point of Entry.

If you have any questions or concerns regarding these suggestions, please contact me or the Committee Policy Analyst, Kelly Gregory, at 775-684-6825. It is my hope that these suggestions will assist the Committee on Judiciary in collecting topics for study during the 2013 Nevada Legislature.

Sincerely,



Senator Valerie Wiener, Chair  
Legislative Committee on Child Welfare and Juvenile Justice

VW/lg:W122757  
Enc.



To: Chairwoman Valerie Wiener and Members of the Committee on Child Welfare and Juvenile Justice  
Date: April 13, 2012  
Re: The Creation of a Statewide Juvenile Justice Commission

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These written remarks advocate for our organization's position related to a variety of topics discussed by your committee throughout its interim meetings.

The ACLU of Nevada supports proactive, positive approaches to criminal justice reform that can reduce recidivism and ultimately keep juveniles out of the criminal justice system. We are pleased that the state continues to take seriously its obligation of constitutional care for youth and we believe that the best method to achieve this goal is to approach reform efforts in the most comprehensive manner as possible. As such, we urge this Committee to make recommendations to the Legislature that will include a broad spectrum of reform, ranging from school discipline to the incarceration of youth.

Should you have any concerns or questions about our position on this matter or would like additional information, please contact me at any time.

Sincerely,

A handwritten signature in blue ink, appearing to read "Rebecca S. Gasca".

Rebecca S. Gasca  
Legislative and Policy Director, ACLU of Nevada

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**Disproportionate Minority Contact in the Child Welfare and Juvenile Justice Systems**

Disproportionate minority contact was discussed at length on April 4, 2012 as Agenda Item VI. It was noted that children of color are involved in the juvenile justice system in Nevada at a higher rate than their Caucasian counterparts. In Nevada, African American youth are involved at a higher rate than their counterparts in other states. As Ritz Reece testified, "Youth of color start in system earlier than whites and deepens exponentially as time goes on."

While we certainly appreciate the work done on the administrative side by judicial officials,<sup>1</sup> as the Honorable Judge Schumacher noted, judges are not in the best position to direct how police

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<sup>1</sup> For example, Nancy B. Miller (Director, Permanency Planning for Children Department, National Council of Juvenile and Family Court Judges) and The Honorable Deborah E. Schumacher (Family Division, Department 5, Second Judicial District Court of Nevada, Washoe County) both testified about how judicial practices are shifting towards better understanding how to interact with these populations.

should be interacting with the public. *Instead, we recommend that this Committee direct the Legislature to consider a remediation plan, which includes legislative oversight, as suggested by one of the presenters on April 4th. This should include use of evidence based practices as well as policy recommendations for police departments, school officials, and service providers who directly interact with the affected populations, particularly with concern to why disproportionality occurs.*

**Creating a Wraparound Model for Youth with Severe Emotional Disturbances Within the Juvenile Justice System (Priority 5 of the Clark County Children’s Mental Health Consortium)**

Alarming statistics were provided by the Clark County Children’s Mental Health Consortium with respect to the number of children involved in the juvenile justice system with severe emotional issues who are being placed in out of state care. We take seriously the position that youth should be treated equally and humanely while enjoying full due process rights throughout their entire involvement with the juvenile justice system. We also believe that additional emphasis should be placed on family unification. *As such, we urge the Committee to follow the recommendations to create a pilot program that will ensure adequate case management for youth with severe emotional disturbances or involved with out-of-community placements.*

**Developing School-Based and -Linked Behavioral Intervention Services for Children with Behavioral Health Care Needs (Priority 7 of the Clark County Children’s Mental Health Consortium)**

The ACLU of Nevada certainly encourages any policy that will encourage complete evidence-based education regarding mental health issues. In addition, evidence-based best practices should be used in schools by officials who engage with children with behavioral needs. Positive Behavioral Interventions and Supports (PBIS) is an approach<sup>2</sup> that could help address policy shortcomings that marginalize our most at-risk youth with behavior problems. Such shortcomings deny them access to education and treatment by funneling them into the school-to-prison pipeline.<sup>3</sup>

Research shows that schools using proactive, positive approaches to discipline can reduce suspensions and expulsions, and ultimately keep juveniles out of the criminal justice system, while improving student achievement and perceptions of school safety. *We recommend that the*

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<sup>2</sup> From [http://pbis.org/pbis\\_faq.aspx](http://pbis.org/pbis_faq.aspx): “PBIS”...comes directly from the 1997 reauthorization of the Individuals with Disabilities Education Act (IDEA). ....PBIS is based on principles of applied behavior analysis and the prevention approach and values of positive behavior support.... PBIS emphasizes the establishment of organizational supports or systems that give school personnel capacity to use effective interventions accurately and successfully at the school, district, and state levels. These supports include (a) team-based leadership, (b) data-based decision-making, (c) continuous monitoring of student behavior, (d) regular universal screening, and (e) effective on-going professional development.

<sup>3</sup> See ACLU of Nevada testimony from May 7, 2010 regarding the State of Nevada’s application for *Race to the Top* funds.

*Committee suggest that the Legislature adopt PBIS as a part of its standards to addressing the needs of children with behavioral health care needs, as well as develop data systems that track school climate programs and discipline.*

### **Juvenile Certification and Incarceration with Adults**

Certifying juveniles as adults and incarcerating them in adult facilities was discussed on April 4, 2012 as Agenda Item X. While we would certainly support legislation that could reflect similarities with Florida's "Second Chance for Children Act,"<sup>4</sup> there clearly are other opportunities for the legislature to affect additional aspects of the criminal justice system. *We recommend that this Committee consider policies that would remove youth from all adult facilities, remove the "once an adult, always an adult" provision in state law, establish a higher minimum age before prosecuting a juvenile as an adult (from 14 to 16), and create a reverse waiver provision that would give judges the discretion to remand children back to the juvenile court system.*

### **School Discipline and the "School to Prison Pipeline"**

On February 22, 2012, several advocates and members of law enforcement testified regarding bullying and other school discipline issues. At that time, a representative from the Education Services Division testified concerning approximately 45 recommendations for expulsion related to "immoral conduct" and bullying. *We urge this Committee to consider recommendations that will ensure that these instances are not illegally infringing on the First Amendment rights of students.*

While none question the need to keep schools safe, there is reason to question the efficacy of exclusionary discipline practices.<sup>5</sup> Historically disenfranchised youth, including students of color and students with disabilities, are most impacted by these policies. These students who have disciplinary problems at school are often most likely to be funneled into different parts of the juvenile justice system. However, these practices affect not only the student being disciplined, but the health and success of the school as a whole: schools with high suspension rates score lower on state accountability tests, even when adjusting for demographic differences.

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<sup>4</sup> <http://www.flsenate.gov/Session/Bill/2012/635>

<sup>5</sup> **According to the American Psychological Association, the use of these practices does not improve behavior, but can instead increase the likelihood that students will fall behind academically, have future behavior problems, become withdrawn and dropout of school** (<http://www.apa.org/news/press/releases/2006/08/zero-tolerance.aspx>). **There is also no evidence that zero-tolerance policies make schools safer or improve student behavior** (Advancement Project, Education on Lockdown: The Schoolhouse to Jailhouse Track (Mar. 2005), p. 16; and ABA Juvenile Justice Committee, Zero Tolerance Policy: Report (Feb. 2001). **On the contrary, research suggests that the overuse of suspensions and expulsions may actually increase the likelihood of later criminal misconduct** (Johanna Wald & Dan Losen, "Defining and Re-directing a School-to-Prison Pipeline," New Directions for Youth Development (No. 99, Fall 2003), p. 11.)

The “school to prison pipeline,” sometimes called school pushout, refers to the national trend of criminalizing, rather than educating, our nation’s children. It occurs as a result of policies and practices that disengage students from learning and remove them from instruction, including zero-tolerance policies and the overuse of disciplinary practices such as suspensions, expulsions, and school arrests. As such, the ACLU of Nevada was one of over 180 organizations and individuals who signed on to the Dignity in School Campaign’s *National Resolution for Ending School Pushout*,<sup>6</sup> a call to action for our school systems to end the harsh discipline and law enforcement tactics that push too many young people out of school each year.

*We urge this Committee to create a more comprehensive approach to addressing these issues by identifying these school based trends as an inappropriate entrée to the juvenile justice system and creating policies that will prevent students from improper introduction into the juvenile justice system through the school to prison pipeline.*

#### **Data Tracking at Point of Entry**

As you know, the work and data-driven developments of Juvenile Detention Alternative Initiatives (JDAI) in Nevada throughout the years has been incredibly important. However, JDAI efforts do not generally include lower level and status offenses that are often a juvenile’s first introduction into the juvenile justice system. No other commission or committee in this state concentrates on these first points of entry. *We recommend that this Committee support a bill that will require the tracking of point of entry statistics for juveniles, including status offenses.*

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<sup>6</sup> [http://www.dignityinschools.org/files/DSC\\_National\\_Resolution.pdf](http://www.dignityinschools.org/files/DSC_National_Resolution.pdf)

## **APPENDIX D**

### Suggested Legislation



## APPENDIX D

### Suggested Legislation

The following bill draft requests will be available during the 2013 Legislative Session, or can be accessed after “Introduction” at the following website: <http://www.leg.state.nv.us/Session/77th2013/BDRList/page.cfm?showAll=1>.

- BDR 38-61 Makes various changes relating to background checks required to be conducted by child care facilities.
- BDR 5-62 Makes various changes relating to sexually exploited children.
- BDR 4-63 Establishes the crime of sex trafficking of a minor.
- BDR 5-64 Revises various provisions relating to juveniles charged as adults for committing certain crimes.
- BDR 38-65 Makes various changes concerning the protection of children and youth in the child welfare system from identity theft.
- BDR 38-66 Revises various provisions concerning investigations of reports of abuse or neglect of a child.
- BDR 38-67 Revises various provisions relating to the protection of children from abuse and neglect.
- BDR 38-68 Revises various provisions concerning reasonable efforts required of an agency which provides child welfare services to preserve and reunify the family of a child in the child welfare system.
- BDR 38-69 Revises various provisions relating to the hearings concerning children who are removed from their homes.
- BDR 38-73 Revises various provisions concerning abuse or neglect of a child.

