

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.