

**MINUTES OF THE
SENATE COMMITTEE ON COMMERCE AND LABOR**

**Eightieth Session
March 13, 2019**

The Senate Committee on Commerce and Labor was called to order by Senator Nicole J. Cannizzaro at 1:46 p.m. on Wednesday, March 13, 2019, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Vacant, Vice Chair
Senator Nicole J. Cannizzaro
Senator Chris Brooks
Senator Joseph P. Hardy
Senator James A. Settelmeyer
Senator Heidi Seevers Gansert

COMMITTEE MEMBERS ABSENT:

Senator Pat Spearman, Chair (Excused)
Senator James Ohrenschall (Excused)

GUEST LEGISLATORS PRESENT:

Senator Moises Denis, Senatorial District No. 2
Senator Keith F. Pickard, Senatorial District No. 20
Senator Melanie Scheible, Senatorial District No. 9
Assemblywoman Lesley E. Cohen, Assembly District No. 29
Assemblyman Edgar Flores, Assembly District No. 28

STAFF MEMBERS PRESENT:

Cesar Melgarejo, Policy Analyst
Bryan Fernley, Committee Counsel
Kim Cadra-Nixon, Committee Secretary

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OTHERS PRESENT:

Monica Engebretson, North American Campaign Manager, Cruelty Free International

Susan Riggs, American Society for the Prevention of Cruelty to Animals

Jeff Dixon, Nevada State Director, Humane Society of the United States

Steven Conger, Power to Parent

Noelle Lefforge, PhD, President-Elect, Nevada Psychological Association

Sarah Adler, New Frontier; Vitality Unlimited

Joelle Gutman, Washoe County Health District

Lea Cartwright, Nevada Psychiatric Association

Catherine O'Mara, Nevada State Medical Association

Michael Hackett, Nevada Primary Care Association; Nevada Public Health Association; Nevada Academy of Physician Assistants

Serena Evans, Policy Specialist, Nevada Coalition to End Domestic and Sexual Violence

Katherine Provost, Nevada Justice Association

LesLee Shell, Clark County

Jamie Rodriguez, Washoe County

Christine Saunders, Progressive Leadership Alliance of Nevada

Megan Ortiz, American Civil Liberties Union of Nevada

Jose Rivera, Nevada Hispanic Legislative Caucus

LaLo Montoya, Political Director, Make The Road Nevada

Erika Castro, Legislative Co-Chair, Nevada Immigrant Coalition; Organizing Manager, Progressive Leadership Alliance of Nevada

Chuck Callaway, Las Vegas Metropolitan Police Department

John Jones, Chief Deputy District Attorney, Clark County; Nevada District Attorneys Association

Mary Sarah Kinner, Washoe County Sheriff's Office

SENATOR CANNIZZARO:

I will open the hearing on Senate Bill (S.B.) 197.

SENATE BILL 197: Revises provisions relating to trade practices. (BDR 52-746)

SENATOR SCHEIBLE (Senatorial District No. 9):

I am here to present S.B. 197. The intention of this bill is to prohibit the sale of cosmetic products for which testing was performed on animals.

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Due to advances in modern science, animal testing has become unnecessary in cosmetic product formulation. Much of the world has already moved forward in prohibiting the practice of animal testing in cosmetic ingredients. This bill would make it illegal in Nevada to sell a product that has been tested on animals.

Our intention is not to hold small business owners responsible for the actions of larger conglomerates. Our intention is to inform larger conglomerates that products using the practice of animal testing are not welcome in Nevada.

The bill provides for necessary exemptions of products using animal testing prior to this legislation. It also provides exemptions for products requiring federal, state or foreign requirements of animal testing.

The enforcement of this law is addressed in section 1, subsections 3 through 5. We are working on the proper enforcement mechanism for the State with the District Attorneys Association, City Attorneys and the Office of the Attorney General.

I have Monica Engebretson with Cruelty Free International here to discuss background on the issue and review S.B. 197.

MONICA ENGBRETSON (North American Campaign Manager, Cruelty Free International):

I have submitted written testimony explaining the background and history of animal testing in cosmetics ([Exhibit C](#)), as well as facts and key points ([Exhibit D](#)). Cruelty Free International is in support of S.B. 197.

The bill is described in section 1. It is unlawful for a manufacturer to import, sell or offer for sale in Nevada any cosmetic that used animal testing after January 1, 2020.

Exemptions to prohibitions are described in section 1, subsection 2, paragraph (a) covers prohibitions that do not apply to animal testing conducted to comply with a requirement from federal or state regulatory agencies if; subparagraph (1) a cosmetic ingredient is in wide use or, subparagraph (2) a substantiated human health problem.

Section 1 subsection 2, paragraph (c) addresses ingredients under the drug category. Drugs are sometimes used in cosmetic formulations and those ingredients would not be in violation if animal testing was used.

Section 1, subsection 2, paragraph (b) addresses required animal testing certifying ingredient safety by a foreign regulatory agency. This category of ingredient testing is not admissible to substantiate safety in Nevada.

Senator Scheible covered the enforcement policy in section 1, subsections 3 through 5.

Section 1, subsection 6 grandfathers in products or ingredients tested on animals before January 1, 2020.

Section 1, subsection 7 states local jurisdictions cannot pass legislation that supersedes the legislation put in place by the State.

Section 1, subsection 8 covers definitions and is consistent with federal definitions, as well as definitions used in California.

Section 2 covers the sell-through of products in violation of this act.

The bill would become effective on January 1, 2020.

SENATOR SETTELMAYER:

Does this bill only apply to manufacturers, not retailers? If so, how many actual cosmetics manufacturers do we have in Nevada?

SENATOR SCHEIBLE:

This bill does not touch the retailers. Retailers would have no way of knowing if tests were conducted on animals and, for this reason, we do not want to hold them accountable. We have also discussed an amendment that would give retailers notice if a product was in violation of this bill. In this case, they would be given six months to sell the inventory they have in their store.

SENATOR SETTELMAYER:

The proposed amendment appears to target retailers as the amendment's purpose is to address the resale of inventory in violation of this bill. Can you explain?

SENATOR SCHEIBLE:

Our goal is not to direct this legislation toward retailers. We hope that retailers in this State are not intentionally selling products in violation of the law. We do want to implement a provision that cures potential problems.

SENATOR HARDY:

Please explain the statement, "cheaper, faster, better predictors of adverse human reactions available now." How is this done?

MS. ENGBRETSON:

The alternative tests come in different forms. Human skin can be grown in a lab and tested for skin irritation. Reconstituted human corneas or eyes of chickens or cows that have already been slaughtered for other purposes have been used to test eye irritation. Computer simulations based on chemical structure can be used to determine reactions for other areas of toxicology.

SENATOR HARDY:

Please define "animal testing" as it relates to live animal parts and dead animal parts.

MS. ENGBRETSON:

The definition of animal testing is specific to live animals.

SENATOR HARDY:

From human testing, can you tell if it itches or only if it irritates?

MS. ENGBRETSON:

The process of human skin irritation tests is well-known. Irritation can be stimulated in the environment of the skin. Humane patch tests on human subjects is also available to test irritation.

SENATOR HARDY:

In this case, humans are not animals?

MS. ENGBRETSON:

No, in this case, humans are not animals.

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SENATOR BROOKS:

How many states have a ban on animal testing at the wholesale level? How many states have a ban on animal testing at the retail level?

MS. ENGBRETSON:

No state has implemented the law banning animal testing. California has passed the law and it goes into effect in 2020. California's law mirrors the language in Nevada's proposed bill. Several states have legislation pending.

SENATOR CANNIZZARO:

In the current language of the bill, the legislation only applies to manufacturers. Is this correct?

MS. ENGBRETSON:

Yes, that is correct. The current legislation applies only to manufacturers.

SENATOR CANNIZZARO:

Does the bill apply only to manufacturers because they would be aware of the type of testing of products? A retailer might not know the specific testing of a product.

MS. ENGBRETSON:

Yes, this is correct. We wanted to make sure that the one who conducted the test is the responsible party.

SENATOR CANNIZZARO:

Are the provisions related to retailers liquidating banned products, new language in the bill?

SENATOR SCHEIBLE:

Yes, that is correct. The provisions related to retailers would be an additional section in the bill.

SENATOR CANNIZZARO:

Would the retailer provision be in this bill or in an amendment?

SENATOR SCHEIBLE:

The concern about retailers would require an amendment.

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SENATOR CANNIZZARO:

To confirm, it is not your intention to add the retailer language to the bill at this time.

SENATOR SCHEIBLE:

Correct, it is not our intention to add the retailer language to the bill at this time.

SUSAN RIGGS (American Society for the Prevention of Cruelty to Animals):

We are here in support of S.B. 197. On behalf of our Nevada members, we strongly agree with the sponsors' assertion for testing cosmetics by affordable and effective means other than animal testing.

JEFF DIXON (Nevada State Director, Humane Society of the United States):

We are here in support of S.B. 197 and legislation to move us forward toward more humane and compassionate testing of cosmetic ingredients. We thank Senator Scheible for her leadership on this issue. We also thank Cruelty Free International for their long-standing commitment to end animal testing for cosmetics. I have submitted written testimony ([Exhibit E](#)).

SENATOR SCHEIBLE:

I am continuing to work with the Legislative Counsel Bureau to answer some of the questions raised today. I am also happy to continue to work with the Committee and interested stakeholders to ensure we get an effective and accurate bill.

SENATOR CANNIZZARO:

I will close the hearing on S.B. 197 and open the hearing on S.B. 247.

SENATE BILL 247: Requires informed consent of a parent or guardian before certain services related to mental health are provided to a child. (BDR 39-626)

SENATOR KEITH F. PICKARD (Senatorial District No. 20):

I appreciate the opportunity to present S.B. 247. This bill clarifies the responsibility of mental healthcare providers to make good faith efforts to obtain the informed consent of each parent or legal guardian who has legal custody of a child under 18 years of age and not legally emancipated. This consent should be acquired before providing care relating to the mental health of the child unless it is an emergency or urgent situation.

I have with me Assemblywoman Lesley Cohen who will assist me in presenting the details of this bill.

I would like to provide background on this bill. First, existing law currently places equal legal custodial powers in both parents as a matter of right. The U.S. Supreme Court held in the case *Troxel v Granville*, 530 U.S. 57 (2000) that this coequal right is fundamental, requiring the law's highest regard. In the case *Rivero v. Rivero*, 125 Nev. 410 (2009) the Nevada Supreme Court mandated that parents who disagree whether any particular decision is in the best interest of the child, must seek consent of a court before proceeding with those decisions regarding the child's health, education and religious upbringing. Please refer to the PowerPoint presentation titled Protection of Children in Mental Health Treatment ([Exhibit F](#)).

Divorce, child custody, and visitation disputes often set the stage for high-conflict parents to ignore the fundamental rights of the other parent. One parent may take the minor child to a practitioner to gain a tactical advantage in the custody dispute. It is not unusual for a parent to take a child for a mental health evaluation with the real intent of obtaining a report to obtain primary custody. When the practitioner treats a child without both parents' consent, one parent may file a complaint about the practitioner. This puts both the practitioner and child in jeopardy and in the path of unnecessary harm.

Examples arise most often in high-conflict custody cases. In these situations, a parent may take the child for a custody evaluation without the other parent's consent. This situation can lead to false or partly false information.

Ethics experts recommend involving both legal guardians as a best practice in mental health services for children.

Practitioners will avoid complaints from an absent parent or guardian if good faith efforts are made to obtain consent from all parties. Consent of both parents avoids unnecessary or improper treatment of children. Consent of both parties also helps to avoid litigation that arises because the practitioner did not have the entire picture.

Senate Bill 247 takes the existing law, which requires both parents to consent to treatment before starting. It also requires mental health practitioners to obtain informed written consent of the parent or guardian of the child under the age of

18 and not legally emancipated, before instituting a plan of care or providing treatment, though consent of treatment is not addressed in any of their rules.

I will be referring to the bill and amendments provided ([Exhibit G](#)). The conceptual amendment captures the original intent that was not captured in the first draft of the bill.

In reviewing the conceptual amendment, sections 1 through 7, 9 and 11 require certain providers of mental health services to obtain the informed consent of each parent or guardian before providing care to the minor child.

I have provided a "decision tree" in [Exhibit F](#), as a matter of clarification of the bill's objective in providing treatment for children. One of the concerns of the opposition, particularly practitioners, was prevention of services for children.

In cases where both parents would not consent to treatment, we allow for three specific exemptions. The exemptions include avoiding risk of harm to the child, court-ordered services or nonreply of the second parent or guardian.

Nonmedical necessity is the only instance that prevents medical treatment of a child when parents are in disagreement. In this case, parents must obtain a legal order to get treatment for the child.

This bill takes the requirements that are in existing law in *Nevada Revised Statutes* (NRS) 125C.001, subsection 2, to grant parents equal custodial rights.

In every instance, there is a path to treatment if it is urgent. If treatment can wait, we should afford the other legal custodian their due process to participate in the major life decisions of the child.

I would like to turn this over now to Assemblywoman Cohen. She will speak to the practical side of the bill.

ASSEMBLYWOMAN LESLEY E. COHEN (Assembly District No. 29):

I am here as a family law attorney to report the issue of children being treated by mental health professionals without the knowledge or consent of the second parent. In these cases, the counselors are opening themselves up to civil liability. More importantly, counselors are potentially harming the child by treating them without the perspective of both parents. Although this is not

common, it is happening often enough that it should be addressed by this Legislature.

SENATOR PICKARD:

In conclusion, I wish to address the concern of resources available to obtain the consent of both parents. The bill does not require written consent. The counselor can receive consent of the second parent by a phone call. Convenience on the part of the counselor is not justification for the fundamental constitutional rights of parents.

SENATOR SETTELMAYER:

What happens when a child wants to keep counseling private from one parent?

SENATOR PICKARD:

What you are describing is a common dynamic in most families, especially in their teenage years. Legally the parents must both agree on counseling. If they cannot agree, one parent must obtain permission from the courts to obtain counseling for their child. This bill simply takes the practice acts of the practitioners and mirrors what is already in existing law.

SENATOR SETTELMAYER:

You are then codifying common practice?

SENATOR PICKARD:

We are codifying the requirements that exist for parents in the practice acts to avoid inadvertent treatment of children that aggregated the second parents' fundamental rights.

SENATOR BROOKS:

Currently, to medically treat a minor, do you need the informed consent of both parents?

SENATOR PICKARD:

Under the present practice acts, you only need the consent of one parent or guardian. It is a blend of yes and no because in the practice acts the parents both have a right to be involved.

SENATOR BROOKS:

In existing Nevada law, to get medical treatment for a minor, do you need to have the informed consent of both parents?

SENATOR PICKARD:

When it comes to NRS 125C.001, subsection 2, both parents have equal legal custodial rights. When we look at the decision of law that means both parents have an equal right to participate in the major life decisions of their children. That is not reflected in the practice acts. I am trying to make that distinction.

SENATOR BROOKS:

To clarify, a doctor who treats a minor with the permission of only one parent is in violation of Nevada State law?

SENATOR PICKARD:

No, the doctor is not in violation of State law, but the parent would be in violation of State law. The law, as it is written, requires parents to obtain permission of the court if they cannot agree. The practice acts, the law that controls the practitioners, is vague as to the consent. The practice acts only require confirmed consent. The practice acts currently do not reflect the existing legal requirements for parents. This bill seeks to reflect the existing legal requirements for parents. As we discuss medical care generally, the reality is we are speaking of urgent care, from a cold to surgery. In urgent cases, the medical physician can move forward with the consent of one parent.

SENATOR CANNIZZARO:

I believe there is some confusion over some of the comments. I wish to clarify your comments in respect to where this provision is required on the part of parents. It is coming from the parents' fundamental rights from a parent to a child. Is that correct?

SENATOR PICKARD:

Yes, that is where it starts.

SENATOR CANNIZZARO:

Before the NRS is discussed, let us clarify the need for the provision. The provision provides for the constitutional right for a parent to make decisions around that child's life and well-being. Because of a parent's constitutional right, when parents disagree, there is a law that has been used to interpret

things like NRS 125C, that indicates that parents have a co-equal right to those decisions.

SENATOR PICKARD:

Yes, that is correct.

SENATOR CANNIZZARO:

When we are talking about things that are a legal obligation of a parent and because there are cases where two parents disagree, the courts have interpreted that as being problematic, because of the rights between the parent and the child.

SENATOR PICKARD:

Yes, that is correct. It is also within the context of the best interests of the child.

SENATOR CANNIZZARO:

I understand the impetus for this bill derives from family court practice. More generally speaking, I think the Committee is reviewing the effects of the proposed statute as it would equally affect individuals in a family law dispute and also individuals who may not be in a family law dispute.

Before we get into statutes that detail best interests of the child, I want to talk generally about how this bill applies.

I think what you are trying to explain, Senator Pickard, is that because of the legal obligations that exist, there are at least some instances in the NRS wherein a practice area is included. This is also what this bill is trying to accomplish; we are going to make this an obligation of these practitioners because of those legal obligations.

SENATOR PICKARD:

Yes, that is a fair description.

SENATOR CANNIZZARO:

My understanding of this bill is that technically, a legal right exists to the extent that parents of children have fundamental rights. From a practice standpoint, and within the NRS, there are not certain obligations aside from the fundamental

rights that we have talked about that would require, for example, a doctor to obtain consent from two parents.

SENATOR PICKARD:

Yes, that is correct.

May I add, this bill does not require actually obtaining that second consent. It only requires that they make a good faith effort to do so. It is dangerous to suggest that convenience alone should be justification for ignoring the other parent's fundamental rights.

SENATOR HARDY:

I am a physician and have seen 16-year-old patients requesting birth control without their parents' consent. I have written prescriptions without notifying either parent. I am not aware of this issue in the statute; my concern is to take care of the patient. Doctors and other professionals who take care of medical concerns are listed in the bill. I think the intent of the bill was to look at psychological issues. Is there a reason medical personnel were included in this bill?

SENATOR PICKARD:

The law already addresses this very issue under NRS 129.030, subsection 3. When a minor seeks treatment on their own, the doctor is required to make a prudent and reasonable effort to obtain the consent of the minor to communicate with the minor's parents. We already have a statutory provision that expressly addresses your issue and allows the physician of any type to move forward with treatment. In fact, that provision makes it illegal for the physician to contact that child's parents if the minor refuses to communicate with their parent.

SENATOR HARDY:

If a parent brings a child to the doctor and the doctor asks to speak with the child privately to gain a better understanding of the situation; is the doctor protected as well?

SENATOR PICKARD:

Yes, that is correct. In the situation you described, the doctor is protected as well.

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SENATOR HARDY:

Was there a rationale for adding medical professionals to the bill, rather than only mental health professionals?

SENATOR PICKARD:

Yes, the rationale is two-fold. We wanted the Practice Acts to be consistent so there was no ambiguity. Psychiatrists are subject to both the Practice Acts for psychiatry and the Practice Acts for medical physicians. The second and most important issue was because physicians, particularly pediatricians, do the initial intake on mental health issues.

SENATOR HARDY:

In an abusive situation, physicians are required to report under current statutes. I am not sure that physicians need to get into the mental health therapy behavioral analysis where one parent is in dispute with another parent.

SENATOR PICKARD:

We are trying to be sensitive to the perspective of medical professionals. We are looking for a good faith effort by medical professionals to contact both parents regarding treatment. If there is evidence of abuse, the bill provides the physician with the authority to move forward with the necessary care of the child.

Without the rules of the bill, the physician is open to civil liability when providing care without the consent of both parents. This bill gives the physician an avenue to justify circumventing the consent of both parents.

SENATOR HARDY:

When I report abuse, I report a suspicion only.

SENATOR PICKARD:

This bill fills a gap that exposes practitioners to civil liability and prevents a parent from circumventing the rights of the other parent.

SENATOR HARDY:

Please clarify the situation I will describe. One parent brings a child to a physician and the child asks for confidentiality, specifically not to divulge the situation to one of the parents. In this situation, is the physician covered legally

to keep this confidence with the child and one parent and not acquire confirmed consent from the second parent?

SENATOR PICKARD:

The legal answer is that it depends. It depends on whether or not the practitioner feels the child is of sufficient age and maturity to make the decision on their own. This is detailed in NRS 129.030.

STEVEN CONGER (Power to Parent):

We support this bill and are appreciative of the work done by Senator Pickard and Assemblywoman Cohen.

NOELLE LEFFORGE, PHD (President-Elect, Nevada Psychological Association):

I am here on behalf of the Nevada Psychological Association (NPA). The Nevada Psychological Association opposes S.B. 247. I have provided written testimony on behalf of NPA ([Exhibit H](#)), but rather than read to you, I will use this opportunity to expand on the experiences that inform our opposition.

The Nevada Psychological Association has treated children residing in rural areas of Nevada through telemental health delivery. Often the parents of these children have very old custodial arrangements in place that have not been followed for years. Sometimes the other guardian has been out of the picture for a long time. The child may be experiencing significant depression as the result of something like bullying. Healing has occurred within the family system since the other parent left. There is a high potential of stirring up a hornet's nest to even reach out to the parent. Sophisticated clinical judgment is needed.

We have provided behavioral interventions in a pediatrician's office to a child that may be suffering from concerns related to something like bed wetting. This child may have never presented to a mental health clinic by the parent who accompanies them, but the provider is able to intervene quickly and efficiently to solve the problem and help the parent replace ineffective and potentially harmful attempts with ones that help. Sophisticated clinical judgment is needed.

We have provided services to children dealing with deportation separation who have guardians with differing immigration status. These families are already suspicious of the systems we have in place. It may be improbable or impossible to reach out to both guardians. Without taking time to develop trust, we may

not be able to engage both parents in the therapeutic process effectively. Sophisticated clinical judgment is needed.

The truth is, it is more common for us to encounter a parent who withholds consent for their child to be treated during high-conflict divorce situations, merely on the basis of retribution toward the other parent. Even if this means the child has stopped attending school, is not eating enough to facilitate growth, or has been completely ostracized by their peers because of symptoms relating to something like obsessive compulsive disorder. These are examples of when a child may be suffering from a highly treatable condition that has little or nothing to do with the conflict between the parents. Sophisticated clinical judgment is needed.

With the limited time today, I cannot explain each and every single situation that may occur when it is not best practice or not feasible despite best efforts to involve both parents. Even with unlimited time, this would be an impossible task. At the end of the day, we must use our clinical judgment to make decisions to best serve our patients; judgment that we train for years and years to acquire. In my case, the minimum is six years after a Bachelor's degree to receive the training of psychologist. This training is equivalent to the number of years in which one may become a physician. It is a slippery slope to mandate ethics and best practices into legislation because contacts matter so much.

I will end by reminding us that broad mandates on clinical practice come at high costs, often particularly at the expense of already marginalized populations. Ethnic minorities and rural populations, among others, will be more likely to suffer the negative consequences of S.B. 247. The provisions of S.B. 247 introduce unnecessary delays in treatment. An essential part of training and behavioral health services delivery to children is considering complex family dynamics. When we have a child patient, we work in the best interests of that child. We have multiple guardian agreements to use to help us navigate these situations when it is a helpful tool. We already have a process in place by which consumers of mental health, who feel that their therapists have acted in harmful ways, can take recourse. These parents may file board complaints so the entire case can be evaluated to see whether or not the therapist's behavior aligns with reasonable standards. The board will take disciplinary action when the therapist falls short.

We believe there are other solutions to the cases that are brought forth in S.B. 247. This bill applies to a narrow set of examples in which a parent with ulterior motives presents a child for treatment. But the vast majority of children who present for services do so with an honest need for them. We share the Senator's frustration with clinicians who do not effectively navigate referrals brought outside of good faith and encourage utilizing existing pathways to interfere with these poor practices. The Nevada Psychological Association is happy to lend our expertise to determine non-legislative courses of action that can be taken to resolve the situations that led to the drafting of this bill. We firmly believe that no amendment will change our opposition to S.B. 247 and appreciate the Committee hearing our rationale.

SARAH ADLER (New Frontier; Vitality Unlimited):

I am representing New Frontier and Vitality Unlimited, two rural certified community behavioral health centers. I appreciate the opportunity to speak extensively with the sponsor and I have also spoken with David McCormick, the clinical supervisor at Vitality Unlimited. David McCormick is a licensed clinical professional counselor. He has been in practice for 29 years. Mr. McCormick came from Alaska to Elko, Nevada, seven months ago and he has not seen patient acuity like he is experiencing here in Nevada. He asked me to enter into the record written testimony that addresses four key concerns of the approach in S.B. 247 ([Exhibit I](#)) and supporting article ([Exhibit J](#)).

JOELLE GUTMAN (Washoe County Health District):

I am here on behalf of the Washoe County Health District. I thank Senator Pickard for meeting with me yesterday. We had hoped to come to a neutral position on this bill; however, we continue to have concerns. We understand and appreciate the intent of the bill, specifically for contentious custodial dispute. However, we think this bill has some widespread, unintended consequences specifically for screening and evaluating children in schools.

I would like to present a specific example from the Health District's perspective. In Washoe County, in partnership with the Children's Cabinet, we are providing education and screening of seventh graders with the signs of the suicide assessment model. Students must return a signed permission slip to be screened. Last semester, we were able to screen 305 seventh graders. Out of those 305 students, 30 percent of them presented with criteria to meet depression and suicide risk. Requiring both parents' signatures would impede our progress and potentially miss kids in need of help. We estimate that

requiring two parental signatures for screening would have reduced student screening by half.

Nevada, as a whole, has only recently begun to address our mental health system. We have made progress in the last couple of years and putting this bill in place would create a barrier to that progress.

In closing, I would like to present 2017 data showing that 23.1 percent of Nevada middle-school children seriously considered suicide. Last year 15 percent had a plan for suicide. We oppose S.B. 247 as it is currently written.

LEA CARTWRIGHT (Nevada Psychiatric Association):

We have submitted a letter of opposition from Dr. Leslie Dixon ([Exhibit K](#)). The Nevada Psychiatric Association is opposed to the provisions of S.B. 247. Psychiatric evaluations and treatment are no different than physical evaluations and treatment. Both are part of the provision of medical care. This bill singles out mental health services. Rather, it is the position of the NPA that mental health services for minors are already addressed under NRS 129.030. There was a statement made that psychiatrists are subject to both the Psychiatry Practice Act and Medical Practice Act. This may be referencing the code of ethics. Psychiatrists are subject to NRS 630 and NRS 633 and the Board of Medical Examiners and the State Board of Osteopathic Examiners.

CATHERINE O'MARA (Nevada State Medical Association):

Our opposition to S.B. 247 has largely been covered by other presenters. I also want to thank the sponsor for spending time with me yesterday to review my questions. While we are sympathetic to the problem the sponsor is trying to solve, we are opposed to this bill.

MICHAEL HACKETT (Nevada Primary Care Association; Nevada Public Health Association; Nevada Academy of Physician Assistants):

I represent the Nevada Primary Care Association, Nevada Public Health Association and Nevada Academy of Physician Assistants. All three groups are in opposition to S.B. 247 for the reasons that have been articulated so far in this hearing. I would like to call to the Committee's attention a letter that was submitted for the record from Zephyr Wellness ([Exhibit L](#)). This letter speaks to the specific concerns from both primary care and public health associations. On

behalf of each organization that I represent, we are more than willing to work with the sponsor of the bill to find an acceptable solution for all of us.

SERENA EVANS (Policy Specialist, Nevada Coalition to End Domestic and Sexual Violence):

We are in opposition of S.B. 247 from a domestic violence standpoint. When a victim of domestic violence flees an abusive home with their child, the other parent still has legal custody. They may be seeking safe shelter in a confidential domestic violence shelter or with a family member or friend. The victim may be concerned that their child needs mental health care and may go to a mental health provider. In this situation, the victim may not feel comfortable disclosing they are experiencing domestic violence in the home. Under the terms of the proposed bill, the healthcare provider is required to encourage that parent to make a good faith effort with the other parent. This situation can put the victim and their children at heightened risk of being found by the abuser. Victims of domestic violence do not necessarily want to go through the criminal justice system to get court approval for mental health care for their child. We do not want legislation to create more barriers for victims of domestic violence and their children.

KATHERINE PROVOST (Nevada Justice Association):

We are in a neutral position for S.B. 247. We have been in ongoing conversations with Senator Pickard, the sponsor of this bill.

We do support the concept this bill is seeking to address, the growing situation of bad actors of custodial parents. These bad actors are bringing children for mental health treatment for gains in the court system.

Clearly, there are some issues with this bill as have been voiced by the opposition. We are hoping that continuing discussions with Senator Pickard and Assemblywoman Cohen, as well as those in opposition, will come to a place where we can be in support of this bill. At this time, we are in a neutral position.

LESLEE SHELL (Clark County):

I wish to thank Senator Pickard for meeting with us to discuss our concerns with S.B. 247. His conceptual amendment, as well as the language we have submitted in our amendment ([Exhibit M](#)), would address those concerns and Senator Pickard is open to including that language in a further draft of this bill.

JAMIE RODRIQUEZ (Washoe County):

I would like to reiterate the comments made by Clark County. We have similar concerns regarding minors in our custody. We appreciate the sponsors' time and willingness to work with us on the conceptual amendment that addresses those concerns.

ASSEMBLYWOMAN COHEN:

The bottom line for me is you as a parent have a right to parent your child, and you as a parent have the right to make medical decisions about your child.

If there is a dispute between parents about treatment; it is the court's place to make the decision, not a psychologist or doctor. This is already the law. This bill is merely making sure that the counselors comply with the existing law.

There was reference in testimony to going to court, but at that point the damage can already have occurred. The child can be in counseling for months with the wrong counselor and with the wrong information.

SENATOR PICKARD:

I have been listening to the discussion. I think it will take continued conversation to make the stakeholders understand the vast majority of their concerns are already addressed in the conceptual amendment.

We agree with the NPA that sophisticated, conceptual judgment should be used. In every instance, we give counselors the opportunity to provide treatment if that judgment is that either the provision of care should continue or that it can wait until the consent is given by the other parent.

At the core, most of the hesitation in implementing this bill concerns convenience; it has to do with staffing.

Everyone wants to do what is best for the child, but we are also talking about the fundamental right of a parent. What I never heard was that providers want to leave out an appropriate party.

I am happy to meet with those in opposition to find common ground and language.

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SENATOR CANNIZZARO:

We will close the hearing on S.B. 247 and open the hearing on S.B. 229.

SENATE BILL 229: Revises provisions relating to certain businesses.
(BDR 54-823)

SENATOR MOISES DENIS (Senatorial District No. 2):

I will be presenting S.B. 229 which prohibits the owner of a temporary residence from disclosing tenant immigration status, as well as certain information.

I would like to begin by presenting background information. On September 13, 2017, the *Phoenix New Times* reported that earlier in the year Manuel Rodriguez-Juarez checked into a Motel 6 using the only form of identification he had, a Mexican voter ID card. A few hours later, three agents from U.S. Immigration and Customs Enforcement (ICE) knocked on Rodriguez-Juarez's door and arrested him after he admitted that he was not authorized to be in the U.S. A *Phoenix New Times* review of court records found that throughout 2017, ICE made at least 20 arrests between the 2 local Motel 6 hotels. The article notes that one question remained unclear. Did someone at Motel 6 tip off ICE? The statement of cause in this case file noted that ICE had received information that Rodriguez-Juarez was checked into room 214. Based on this reporting, the Washington Attorney General initiated an investigation into the Motel 6 chain which admitted that at least 6 of its Washington locations did release to ICE the personal information of over 9,000 guests. That revelation lead the Washington Attorney General to file a lawsuit against Motel 6 for violation of privacy and discrimination against its guests. I will note that while I was doing additional research, I found it a bit troubling to understand that ICE would get the list and look for Hispanic sounding names, clearly in a discriminatory manner. For me, this bill is about privacy and whether hotels should be sharing that information.

I have been fighting this issue for a long time, including my service as a Co-Chair of the National Conference of State Legislatures and the Committee on Immigration Reform. This points to another issue that if there is an issue on enforcement of immigration, we should fix it at the federal level. What is happening is that people in private industry are turning into immigration agents. We need to protect data that is here within our own State.

The legislation before you today seeks to prohibit these types of acts. Senate Bill 229 prohibits an owner or keeper of a hotel, inn, motel, motor court, boarding house or other establishment which provides lodging for transient guests in this State from disclosing information related to the guests' immigration status to persons or governmental entities related to the enforcement of immigration laws. The bill allows the district attorney to initiate civil proceedings against an owner or keeper who violates the provisions. The court may grant equitable relief and award costs and reasonable attorney fees.

ASSEMBLYMAN EDGAR FLORES (Assembly District No. 28):

I am here to co-present S.B. 229. I would like to offer a roadmap expanding on the issues presented by Senator Denis. I will explain how this bill specifically addresses the issues presented and will explain the sections of the bill. I will also cover what the bill does and does not do.

Hotels in the states of Washington and Arizona have shared personally identifiable information of its guests to ICE. Specifically, the hotels shared information relating to guests' national origin, citizenship and immigration status without the consent of those guests.

I would like for you to imagine the worldwide headlines if a similar incident happened in Nevada. Our tourist-driven economy could be devastated if personally identifiable information relating to immigration status was shared. Thousands of people working in the tourist industry could be impacted. These workers are people like my mother who earned her living as a proud culinary member working in a casino.

I would like to walk you through the sections of the bill. A definition for a hotel and information relating to legal presence is described in sections 2 through 4.

In section 5, an owner or keeper of an establishment which provides lodging for transient guests in this State is prohibited from disclosing any information related to guests' legal presence, immigration status, nationality or citizenship from a file record related to guests or patrons of the establishment to any person or any governmental entity for any purpose related to enforcement of immigration laws.

This would disallow a hotel from sharing the personal identifiable information of its guests or patrons without their consent. It is incredibly important to note the

process by which a hotel would share this information. The hotel would make this determination based on a person's appearance, their passport, how they sound or whether or not they speak another language.

In section 6, the right of a district attorney or any person whose information is released in violation of this bill, is allowed to initiate civil proceedings for actual damages. This is enabling language. If a district attorney observed hotels inappropriately sharing personal information of its guests, they could initiate civil proceedings.

Lastly, I would like to explain what this bill does not do. This bill does not prohibit any law enforcement agency from executing a properly issued arrest warrant or a properly issued search warrant. It is enabling language that does not force anyone to pursue civil litigation. It does not impact businesses that are collecting data for legitimate business purposes, such as collecting data regarding visitation records from a geographic area. It is not fine for this information to be shared with Homeland Security to impact an individual.

SENATOR SEEVERS GANSERT:

When the testimony began, the case provided was about a Motel 6 that reached out to law enforcement to inform them about a guest in their establishment. The way the bill is written, it appears to preclude providing information to law enforcement. If law enforcement came to a hotel establishment and asked for information about a guest, it appears it prohibits providing that information.

ASSEMBLYMAN FLORES:

Yes, the way the bill is written, you are correct. If a hotel wanted to simply disclose someone's nationality or citizenship simply to identify if they are in the Country lawfully, they would be prohibited. A passport does not identify if a person is in the Country legally. The hotel could release that information if law enforcement had a search warrant or arrest warrant. If ICE just randomly appeared and asked for information about their guests, no, the hotel is prohibited in this instance.

SENATOR SEEVERS GANSERT:

If a guest consented to release their information, can the hotel release personal information or would law enforcement need a search warrant?

SENATOR DENIS:

The intent is not to prohibit law enforcement from being able to pursue a criminal. The intent of this bill is to prevent a hotel from randomly giving out private guest information to immigration authorities.

SENATOR SETTELMAYER:

I fully support the concept of a hotel not randomly giving out personal information at its own discretion.

In the same respect, I would not support the idea of preventing law enforcement from requesting this information. If the hotel wishes to provide information at the request of law enforcement, they should be allowed to do so.

Law enforcement may be trying to solve a crime. If law enforcement had reasonable suspicion about a person who met certain criteria, they should be able to request information of a hotel.

Recently, in northern Nevada, a crime of murder was investigated. I am very concerned this bill may have precluded law enforcement from asking a business, willing to divulge information, from doing so to solve the murder.

We may possibly need an amendment. If you are trying to address the situation where a hotel is voluntarily and randomly giving personal information without a request, I am with you. If it is the other way, we need further discussion.

ASSEMBLYMAN FLORES:

I agree. If something is pertinent, absolutely the hotel should provide the information. That is why we have the process of getting a search or arrest warrant. If someone is in "hot pursuit," a warrant is not required. We have State and federal law to cover this situation. This is specifically relating to someone giving out blanket information without having a search or arrest warrant present.

SENATOR SETTELMAYER:

In this bill, do you wish to require that a business cannot give out information, even if asked by law enforcement, until they first have a search warrant or a document of that nature?

ASSEMBLYMAN FLORES:

Absolutely, in this bill law enforcement must have a search warrant. If someone was looking for you or for me and had an arrest or search warrant, the personal information should be provided. If law enforcement randomly came to a place where you were staying and requested your personal information, they should have to get a search warrant. This is a privacy issue. No one should have their personal information disclosed simply because it is asked for by law enforcement.

SENATOR SETTELMAYER:

If I am staying in a hotel and the police have a reasonable suspicion that my physical description matches the description of someone that killed someone, information should be given to the police upon request. If that causes me a little bit of grief, so be it if it prevents another murder. I am wrestling with that particular issue on this bill. We will need to follow-up offline and see if there is a solution.

ASSEMBLYMAN FLORES:

I appreciate that comment, because I want to make it clear that this bill does not address any criminal issues such as the hypothetical situation that you described. This is strictly someone coming in and saying we want you to share the personal information of Edgar Flores because he is suspected of being undocumented. It is from this lens that I am approaching this conversation; not through a lens of someone who has committed a crime.

SENATOR DENIS:

In addition, what really brought this on was the hotel sharing a list of all guests with ICE. Immigration and Customs Enforcement was specifically looking for Hispanic names. If law enforcement is looking for a specific person, they would have the ability to acquire that information.

SENATOR HARDY:

I think the bill needs punctuation. Lines 19, 20, 25 and 26 are confusing as it relates to the word "any." It is a punctuation issue. The release of information by hotel personnel needs to relate to the purpose of immigration laws. Is this correct?

SENATOR DENIS:

Yes, that is correct.

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SENATOR CANNIZZARO:

We are ready to hear testimony in support of S.B. 229.

CHRISTINE SAUNDERS (Progressive Leadership Alliance of Nevada):

Progressive Leadership Alliance of Nevada has worked for the past 25 years to make Nevada a more socially and environmentally just State for all. The bill will prevent public accommodations from racially profiling and violating the privacy of their guests. Tourism and travel are central to Nevada's economy and lifestyle, with each year over 40 million people visiting Las Vegas alone. This policy will ensure that everyone will feel welcome to visit this great State no matter what they look like or where they were born. Your vote to support this bill upholds our values of dignity and respect for all people who visit or call Nevada home.

MEGAN ORTIZ (American Civil Liberties Union of Nevada):

We are in full support of this bill.

Speaking to the idea of tourism in this State, any of us could check into a hotel and fall subject to having our personal information shared simply because someone thinks our name sounds questionable. With that in mind, I urge you to please support this bill.

JOSE RIVERA (Nevada Hispanic Legislative Caucus):

On behalf of the Nevada Hispanic Legislative Caucus, we are in support of this bill. Customers and clients have a right to privacy. Their personal information being disclosed without their consent is a problem. Companies normally ask for permission to share information for promotional purposes or to share that information with third parties. How is it possible that we have that culture, but we think it is acceptable for a lodging company to share personal and confidential information to outside agencies?

LALO MONTROYA (Political Director, Make the Road Nevada):

Make the Road Nevada is a member-funded, member-led organization. We are fighting to improve the quality of life of all immigrants and working families in Nevada. We are in support of S.B. 229 because Nevada greatly benefits from tourism and we want to ensure tourists enjoy their stay. We believe S.B. 229 reaffirms that all visitors to our State will be treated with dignity and respect. Thank you for supporting S.B. 229.

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ERIKA CASTRO (Legislative Co-Chair, Nevada Immigrant Coalition; Organizing Manager, Progressive Leadership Alliance of Nevada):

I am here to express our support for S.B. 229 and have submitted a letter of support and written testimony ([Exhibit N](#)).

SENATOR CANNIZZARO:

We will now hear from those in opposition of S.B. 229.

CHUCK CALLAWAY (Las Vegas Metropolitan Police Department):

I am here today in opposition to S.B. 229. While we support the intent of the bill, we have some concerns from a law enforcement perspective.

Las Vegas Metropolitan Police Department in southern Nevada has a great relationship with the hotels and properties in our resort corridor. We work very hard in a number of programs such as See Something, Say Something®, a campaign which engages the public in protecting our homeland through building awareness, partnerships and other outreach. We work to ensure we are providing a high level of public safety to the community and to visitors.

Las Vegas Metropolitan Police Department does not do immigration enforcement; that is the job of the federal government. We do participate in 287(g), which is a system to verify the status of individuals booked for a criminal offense. We have a policy against officers doing immigration enforcement in the field.

Unfortunately, in section 4 of this bill, the language "Information related to legal presence" means information that may reveal whether a person is legally present in the United States.

The language in this bill would prevent the hotel owner from providing information about suspects. We can envision this happening if an officer sees a stolen vehicle in a hotel's assigned parking spot or a victim of a robbery witnesses the person run into a hotel room. The bill would prevent hotel personnel from sharing information with law enforcement about suspects.

Search and arrest warrants require probable cause, but we investigate a tremendous number of crimes at the level of reasonable suspicion. At this level, we are investigating prior to the level of probable cause.

I see this as a U.S. Department of Homeland Security issue involving the "See Something, Say Something" campaign. In this campaign, we want hotel personnel to report suspicious activity in a hotel room. This suspicious activity might involve, for instance, someone like Stephen Paddock, who was responsible for the mass shooting in Las Vegas. I think it is a significant issue if hotel personnel would not report for fear of liability from this statute.

I look forward to working with the bill's sponsor to address these issues and narrow the bill to specifically provide information to ICE or other immigration enforcement agencies.

JOHN JONES (Chief Deputy District Attorney, Clark County District Attorney's Office; Nevada District Attorneys Association):

Clark County has proposed an amendment to S.B. 229 ([Exhibit O](#)). In section 6, we propose striking out the language designating the district attorney as the one who would seek an injunction or potential civil damages in cases where the proposed policy was violated. District attorneys are not the attorneys who represent individuals. District attorneys represent county agencies and prosecute criminal laws. District attorneys are not the agency personnel who should be filing civil actions on behalf of individuals. We have spoken with Senator Denis about our proposed amendment. We urge this Committee to adopt the amendment. The amendment would allow others, on behalf of the individual, to seek both equitable relief and any injunctions.

Finally, on behalf of the District Attorney's Office, I would like to adopt the statements made by Chuck Callaway of the Las Vegas Metropolitan Police Department. We are in opposition to any bill that would dissuade anyone from calling law enforcement when actual emergencies exist.

MARY-SARAH KINNER (Washoe County Sheriff's Office):

We echo the comments made by Mr. Callaway of the Las Vegas Metropolitan Police Department. As written, this legislation may tie our hands in investigations.

SENATOR DENIS:

We have heard the issues and concerns voiced from law enforcement. We intend to work with them and with our legal department on these issues.

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We appreciate the opportunity to present this issue which is of grave importance for our State.

SENATOR CANNIZZARO:

We now close the hearing on S.B. 229.

I request Committee introduction of a bill draft request (BDR).

BILL DRAFT REQUEST 40-784: Authorizes medical marijuana establishments and associations of medical marijuana establishments to participate in programs of workforce development. (Later introduced as Senate Bill 278.)

SENATOR SETTELMAYER MOVED TO INTRODUCE BDR 40-784.

SENATOR BROOKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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SENATOR CANNIZZARO:

As there is no public comment at this time, the meeting is adjourned at 3:41 p.m.

RESPECTFULLY SUBMITTED:

Kim Cadra-Nixon,
Committee Secretary

APPROVED BY:

Senator Nicole J. Cannizzaro

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	8		Attendance Roster
S.B. 197	C	1	Monica Engebretson / Cruelty Free International	Written Testimony
S.B. 197	D	1	Monica Engebretson / Cruelty Free International	Supporting Facts and Key Points
S.B. 197	E	1	Jeff Dixon / Humane Society of the United States	Written Testimony
S.B. 247	F	3	Senator Keith Pickard	PowerPoint Presentation
S.B. 247	G	2	Senator Keith Pickard	Conceptual Amendment
S.B. 247	H	2	Noelle Lefforge, PhD / Nevada Psychological Association	Written Testimony
S.B. 247	I	2	Sarah Adler / New Frontier; Vitality Unlimited	Written Testimony of David McCormick
S.B. 247	J	8	Sarah Adler / New Frontier; Vitality Unlimited	Supporting Article
S.B. 247	K	1	Lea Cartwright / Nevada Psychiatric Association	Letter of Opposition Lesley Dickson, M.D., Nevada Psychiatric Association
S.B. 247	L	3	Michael Hackett / Nevada Primary Care Association; Nevada Public Health Association; Nevada Academy of Physician Assistants	Letter of Opposition of Zephyr Wellness
S.B. 247	M	7	LesLee Shell / Clark County	Proposed Amendment
S.B. 229	N	1	Erika Castro Progressive Leadership Alliance of Nevada; Nevada Immigrant Coalition	Letter of Support and Written Testimony

S.B. 229	0	2	John Jones / Clark County District Attorneys; Nevada District Attorneys Association	Proposed Amendment
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