

Bulletin No. 11-16



**Legislative Committee on Child Welfare
and Juvenile Justice**

Legislative Counsel Bureau



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BULLETIN NO. 11-16

LEGISLATIVE COMMITTEE ON CHILD WELFARE AND JUVENILE JUSTICE

Nevada Revised Statutes 218E.705

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**REPORT TO THE 76th SESSION OF THE NEVADA LEGISLATURE
BY THE LEGISLATIVE COMMITTEE ON CHILD WELFARE AND
JUVENILE JUSTICE (NRS 218E.705)**

I. INTRODUCTION

Senate Bill No. 3, enacted by the 75th Session of the Nevada Legislature (Chapter 452, *Statutes of Nevada 2009*, page 2545), amended the *Nevada Revised Statutes* to establish the Legislative Committee on Child Welfare and Juvenile Justice (Committee). Pursuant to this statutory authority, the Committee is charged to:

- Evaluate and review issues relating to the provision of child welfare in this state, including, without limitation:
 - Programs for the provision of child welfare services;
 - Licensing and reimbursement of providers of foster care;
 - Mental health services;
 - Compliance with federal requirements regarding child welfare; and
- Evaluate and review issues relating to juvenile justice in this state, including, without limitation:
 - 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;
 - 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;
 - 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;
 - 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;
 - 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:
 - Victimization and abuse;
 - Substance abuse;
 - Mental health;
 - Education; and
 - Vocational and skills training;

- The quality of care provided for juvenile offenders in state institutions and facilities, including, without limitation:
 - The qualifications and training of staff;
 - The documentation of the performance of state institutions and facilities;
 - The coordination and collaboration of agencies; and
 - The availability of services relating to mental health, substance abuse, education, vocational training and treatment of sex offenders and violent offenders;
- The feasibility and necessity for the independent monitoring of state institutions and facilities for the quality of care provided to juvenile offenders; and
- 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.

A copy of Senate Bill 3 (2009) which created and set forth the power and duties of the Committee is provided in Appendix A.

A. COMMITTEE MEMBERS AND STAFF

The Legislative Commission appointed the following legislators to the Committee for the 2009-10 biennium:

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

Legislative Counsel Bureau (LCB) staff services for the Committee were provided by, Rex Goodman, Principal Deputy Fiscal Analyst, Fiscal Analysis Division; Sara L. Partida, Principal Deputy Legislative Counsel, Legal Division; Nicolas C. Anthony, Senior Principal Deputy Legislative Counsel, Legal Division; and Donna Thomas, Management Assistant, Fiscal Analysis Division.

B. OVERVIEW OF THE SUBCOMMITTEE'S PROCEEDINGS

During the 2009-10 Interim, the Committee conducted five meetings, including one work session, on the following dates: December 1, 2009; February 9, 2010; April 14, 2010; June 21, 2010; and July 19, 2010. The five meetings were held at the Grant Sawyer State Office Building in Las Vegas with videoconferencing to the Legislative Building in Carson City, which allowed testimony from both locations. All of the Committee's meetings were also broadcast live over the Internet.

Following the December 1, 2009, meeting, Committee members participated in an informational tour of the Summit View Youth Correctional Center in North Las Vegas,

approximately five months before the facility was closed pursuant to the actions of the 26th Special Session of the Legislature.

The information included in this report provides a general overview of the complex issues and information considered by the Committee in formulating its recommendations for Committee letters and legislation to be considered by the 2011 Legislature. For more detailed information on the Committee, please consult the minutes and exhibits from the meetings, which are available from the Legislative Counsel Bureau's Research Library (775/684-6827). The minutes (including exhibits) and a copy of this report are available electronically on the Legislature's website at <http://leg.state.nv.us/Interim/75th2009/Committee/StatCom/ChildWelfare/?ID=49>.

II. ISSUES CONSIDERED AND DISCUSSED DURING THE 2009-10 LEGISLATIVE INTERIM

During the course of its work, the Committee considered and discussed issues related to a wide variety of child welfare and juvenile justice topics.

A. LIST OF ISSUES DISCUSSED

The following is a list of some of the many issues discussed during the 2009-10 Legislative Interim:

Child Welfare

- Status of legislation and letters requested by the Interim Study on the Placement of Children in Foster Care (2007-08 Legislative Interim) and regulations promulgated pursuant to Senate Bill 356 (2007 Session);
- Findings of the recent federal Child and Family Services Review (CFSR) of Nevada's child welfare system;
- Issues identified by Nevada child welfare agencies;
- Financial Assistance for Former Foster Youth (FAFFY) Program, Step-Up, administered by the Child Focus organization;
- Transition of youth aging out of foster care;
- Domestic sex trafficking of minors;
- Child death reviews;
- Implementation of the Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351);
- Care of children during disasters;
- Fostering in Faith program, administered by the United Methodist Social Ministries (UMSM) of Las Vegas;
- Community We Will Campaign;
- Child prostitution and the prosecution of persons accused of pandering and soliciting children;

- Requiring public notice for hearings on sibling visitation, pursuant to *Nevada Revised Statutes* 127.140, related to Assembly Bill 364 (Chapter 111, *Statutes of Nevada 2009*);
- Release of data or information collected pursuant to *Nevada Revised Statutes* 432B.290 for use in procedures to establish minor guardianships pursuant to *Nevada Revised Statutes* 159;
- Recommendations of the Legislative Auditor's Review of Governmental and Private Facilities for Children, audit number LA10-15, pursuant to *Nevada Revised Statutes* 218G.575;
- Establishment of a Kinship Guardianship Assistance Program as part of the Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351);
- Residency requirements related to the finalization of adoptions;
- Report on the negotiation of the Program Improvement Plan (PIP) resulting from the 2009 Federal Child and Family Services Review (CF SR);
- 10-year strategic plans for children's mental health consortiums, pursuant to *Nevada Revised Statutes* 433B.335;
- Representation of the child welfare agency and the role of the District Attorney;
- Termination of parental rights, pursuant to Chapter 128 of the *Nevada Revised Statutes*, and potential impacts on the right to inheritance;
- Programs for foster children and victims of child abuse and neglect provided by Boys Town Nevada and St. Jude's Ranch for Children;
- Efforts to help victims of child prostitution.

Juvenile Justice

- Issues identified by the Nevada juvenile justice agencies;
- Status of changes that resulted from the Civil Rights of Institutionalized Persons Act (CRIPA) inspection performed at Nevada Youth Training Center in February 2002;
- Juvenile justice program enhancements funded by the American Recovery and Reinvestment Act of 2009;
- Statewide implementation of Juvenile Detention Alternatives Initiative (JDAI) reforms;
- Implementation of the Adam Walsh Child Protection and Safety Act of 2006 (P.L. 109-248);
- Certification of juvenile offenders: latest research, state trends, and best practices;
- Certification of juvenile offenders: detention of status offenders, and the Juvenile Justice and Delinquency Prevention Act of 1974 related to interdisciplinary sharing of information;

- Juvenile justice programs provided at the Betty K. Marler Youth Services Center, operated by Rite of Passage;
- Sharing of information between child welfare agencies and juvenile justice courts.

B. SUMMARY OF ONGOING ISSUES

At its fifth meeting on July 19, 2010, the Committee voted to request a report from Clark County to be received at the beginning of the 2011 Legislative Session on the status of its negotiations between the Clark County District Attorney's Office and the Clark County Department of Family Services. As will be discussed further in Section III-D. below, during the course of the Committee's meetings, Committee members expressed interest and concern regarding the legal representation of the child welfare agencies in Clark and Washoe Counties. During its June 21, 2010 meeting, the Committee received presentations from representatives of the child welfare agencies, representatives from the respective District Attorney's offices, as well as testimony from subject matter experts in the area of legal representation of child welfare agencies. The Committee expressed concern about some of the information presented with regards to Clark County and discussed possible actions to address the situation.

The Committee ultimately voted, in agreement with requests from Clark County's Manager's Office and its District Attorney's Office, to allow the county additional time to negotiate a solution to the perceived issues and report back to the Committee at the beginning of the 2011 Legislative Session on the status of those negotiations. The Legislative Commission, at its August 13, 2010, meeting, directed the Legislative Committee on Child Welfare and Juvenile Justice to hold one additional meeting during the first weeks of the 2011 Legislative Session to accommodate the review of the report and recommendation.

III. DISCUSSION OF MAJOR ISSUES RESULTING IN BILL DRAFT REQUESTS, COMMITTEE LETTERS, OR POLICY STATEMENTS

During the Committee's meeting on July 19, 2010, the members conducted a work session and recommended six requests for bill drafts to be considered by the 2011 Legislature, as well as a letter to Clark County regarding one ongoing issue and a statement of support in the Committee's final report for another issue. A summary of the recommendations is included in Appendix B. Additional detail about the issues the Committee discussed during the 2009-10 Interim and the recommendations that resulted from those discussions is included below.

A. KINSHIP GUARDIANSHIP ASSISTANCE PROGRAM, AS ALLOWED BY THE FOSTERING CONNECTIONS TO SUCCESS AND INCREASING ADOPTIONS ACT OF 2008 (P.L. 110-351)

The Committee received testimony from representatives of the Clark County Department of Family Services (DFS) and the Division of Child and Family Services (DCFS), Department of Health and Human Services (DHHS), regarding the provisions

of the Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351), including provisions that allow for the establishment of a kinship guardianship assistance program. The testimony indicated that the new federal law provides states with the option to establish kinship guardianship assistance programs and allows federal financial participation for reimbursement of maintenance costs of such programs. Thomas Morton, Director of Clark County DFS, provided testimony on the other provisions of the new law but indicated that the kinship guardianship assistance program was the only provision that would definitely require statutory change if Nevada chose to implement the program. Mr. Morton testified that changes would be required to Chapters 159 and 432B of *Nevada Revised Statutes* and a new chapter similar to Chapter 127 which authorizes the adoption assistance program would need to be added. Mr. Morton also indicated an appropriation of state funding would be necessary to implement the program and the process would require study and analysis.

Representatives from DCFS provided testimony at a subsequent Committee meeting and explained additional details of the program as well as differences between the proposed program and the existing Kinship Care Program administered by the Division of Welfare and Supportive Services (DWSS). Amber Howell, Deputy Administrator of DCFS, explained that the proposed program would utilize licensing requirements similar to foster care and would be funded partially with federal Title IV-E funding. Unlike the existing DWSS kinship program, the proposed program would not include age restrictions for guardians. Diane Comeaux, Administrator of DCFS, testified that the major benefit of the program is the ability to move more children to permanency when reunification and adoption are not options. Ms. Comeaux indicated that DCFS was analyzing the potential cost of the program but some factors were difficult to estimate, such as the number of current, unpaid relative placements that would choose to get licensed and change to the paid guardian assistance program.

At the Committee's work session, Ms. Comeaux again testified about the program but this time indicated that the proposed program would introduce no new costs for the state. Ms. Comeaux indicated that the possible candidates for the program would be children already in the state's custody with guardians receiving placement payments. Ms. Comeaux testified that it was doubtful that the program would produce financial benefits for the state but that it would help the state achieve better permanency outcomes for children, which could help the state avoid federal sanctions and financial penalties.

The Committee supported the concept of a kinship guardianship assistance program but expressed concern about the possible costs to establish and administer a new program in the current economic climate. The Committee made the following recommendation:

Recommendation No. 1 - Draft legislation to authorize, but not require, the child welfare agencies in the state to establish a kinship guardianship assistance program, as allowed by the Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351). Amend NRS to require the Department of

Health and Human Services (DHHS) to include in the state plan for child and family services a provision for kinship guardianship assistance payments in accordance with 42 U.S.C. §§ 671 and 673(d), including, without limitation, minimum requirements for the kinship guardianship assistance agreements, the amounts that may be paid pursuant to such agreements, additional services that may be provided and any other requirements prescribed by federal law. Further amend NRS to provide that child welfare agencies may, in accordance with the provisions of the state plan, enter into kinship guardianship assistance agreements. (See NRS 127.186 and 422A.650 for similar programs.) (BDR 196)

B. ADOPTION

The Committee received testimony from representatives of the Washoe County Department of Social Services (DSS) regarding recommendations to improve efficiency in the adoption process by allowing Nevada courts to finalize adoptions of children in the custody of Nevada child welfare agency with individuals in other states. Kevin Schiller, Director of Washoe County DSS, testified that the economic downturn of the last 18-24 months has caused family courts in other states to prioritize hearings for finalization of adoptions. As a result, cases involving children in other states' custody, such as Nevada's, are being delayed. Samantha Sevcsik, Social Services Supervisor from Washoe County DSS, indicated that adoptions finalized in Nevada typically occur within 30 days of the issuance of the consent to adoption but the same process takes an average of four to six months in out-of-state adoptions. These delays affect Nevada's outcomes related to permanency in federal reviews because a large number of the adoptions involving children in state child welfare agency custody are finalized outside of Nevada. Ms. Sevcsik testified that at the time of the Committee's April 14, 2010, hearing, 44 out of 110 children (40 percent) with cases being processed by Washoe County's adoption unit were placed with relatives in other states.

Chapter 127 of *Nevada Revised Statutes* requires that petitioners for adoption be residents of Nevada for at least six months prior to the granting of an adoption, which precludes Nevada courts from signing petitions for individuals residing in other states. Ms. Sevcsik testified that other states such as California and Oregon have passed laws allowing courts in those states to sign petitions for adoption of children in the custody of their child welfare agencies even if the petitioner resides out-of-state. Ms. Sevcsik recommended that the Legislature amend statute to allow Nevada courts to do the same and reduce delays in finalization related to other states' prioritization of cases. Ms. Sevcsik also recommended that petitioners for adoption be allowed to attend hearings by telephone, to accommodate those petitioners in other states.

The Committee made the following recommendation:

Recommendation No. 2 - Draft legislation to amend NRS 127.060 to allow a court in Nevada to finalize the adoption of a child in the custody of a Nevada child welfare agency without regard to the state of residence of the proposed adopting parents, if the child welfare agency in the state of residence of the proposed

adopting parents has agreed to the adoption. Also provide that the proposed adopting parents may attend the hearing in person or by telephone. (BDR 197)

The Committee also heard testimony and received written recommendations for an amendment to statute from judges and attorneys representing the Second Judicial District, the Washoe County District Attorney's Office, Washoe Legal Services, and Legal Aid Center of Southern Nevada. Judge Deborah Schumacher from the Second Judicial District testified at the Committee's June 21, 2010, hearing, and indicated that Assembly Bill 364 (2009 Legislative Session) amended Chapter 127 of *Nevada Revised Statutes* to require courts conducting the adoption hearing of a child in the custody of an agency that provides child welfare services to hold a hearing to determine whether to include an order for visitation with a sibling in the decree of adoption. Judge Schumacher testified that an issue exists because current statute only requires that notice of an adoption petition be given to the legal custodian of the child and that proceedings are confidential. Assembly Bill 364 amended statute to include a list of parties that may petition the court for an order of sibling visitation but the statute does not allow for notice of the adoption hearing to be provided to those parties.

The group represented by Judge Schumacher made a suggestion to the Committee to amend the NRS to require that the agency which provides child welfare services provide notice of the sibling visitation hearing to all interested parties. Interested parties were defined in the group's suggestion as the adoptive parent, the adoptive child age 10 or older, the adoptive child's attorney, the adoptive child's caregiver, the sibling of the adoptive child age 10 or older, and the attorney and caregiver for the sibling of the adoptive child. Interested parties were not to include a parent whose rights have been terminated. Judge Schumacher also recommended that sibling visitation hearings not be held at the same time as the adoption finalization hearing, in the interest of maintaining the visitation hearing, which could become contentious, separate from a hearing at which an adoption is finalized, which is generally a happy, memorable event.

The Committee made the following recommendation:

Recommendation No. 7 - Draft legislation to amend NRS 127.2827 to require that notice of a hearing to determine whether to include an order for visitation with a sibling in the decree of adoption of a child in the custody of an agency which provides child welfare services, must be provided to any interested party. Also, amend NRS 127.2827 to provide that a hearing to determine whether to include an order for visitation with a sibling must be held at a date and time other than when the petition for adoption is granted. (BDR 197)

C. CARE OF CHILDREN DURING DISASTERS

The Committee received testimony from Doug Riffenburgh, State Manager for Policy and Advocacy of California, Nevada, and Washington of the Save the Children organization, regarding the need to include requirements in statute for emergency preparedness planning for child care facilities and schools. Mr. Riffenburgh detailed four recommendations that his organization encourages states to adopt to adequately

address children's safety during disaster situations. Mr. Riffenburgh noted that Nevada currently meets only one of the four recommended criteria for preparedness: child care facilities are required to develop an emergency preparedness plan for situations of evacuation, including designating an evacuation site and route. The three recommendations that Nevada needs to address, according to Save the Children, are: 1) develop a means of notifying parents about evacuations and relocations; 2) require that children with special needs are considered during an emergency so no child is jeopardized due to lack of planning; and 3) expand existing K-12 school standards beyond planning around violent crises, to include multi-hazards such as natural disasters, industrial accidents, and bioterrorism attacks.

Representatives from DCFS and the child welfare and juvenile justice agencies from Clark, Washoe, and Douglas Counties provided testimony about the disaster plans that the agencies currently utilize and identified areas for possible improvement that could be addressed in statute or regulation. County representatives identified the need to develop a plan for coordination of the state and local agency response in emergency situations when the required response exceeds the abilities or capacity of the local entity. Washoe County also recommended that regulations be strengthened by requiring that elements of disaster planning be included in the conditions for licensing of foster homes, similar to those currently required pertaining to child care facilities in Section 432A.280 of *Nevada Administrative Code*. An area of concern that was identified however was the amount of resources that are required to develop, maintain, exercise, and train staff in disaster response planning, requiring funding for staff or the redirection of staff from other priorities. Concern was expressed over the imposition of new requirements for disaster planning in regulation but no additional resources being provided to enable the agencies to comply with the new requirements.

Committee members agreed with the importance of the recommendations and were sympathetic to the concerns of the counties regarding resources to implement the recommendations. The Committee's recommendations are summarized as follows:

Recommendation No. 3 - Draft legislation to require the Division of Child and Family Services (DCFS) to develop a plan for the care of children during disasters in circumstances in which the local child welfare or juvenile justice agency is unable to respond to the needs of children. A summary of the plan must be submitted to the Legislative Committee on Child Welfare and Juvenile Justice and made available on the Internet website of the Division. (BDR 198)

Recommendation No. 4 - Draft legislation to require the DCFS to adopt regulations relating to planning for children during disasters, which prescribe the elements of a disaster plan that must be in place for a foster home which provides care to a child in this state. (BDR 198)

D. LEGAL REPRESENTATION OF CHILD WELFARE AGENCIES

Committee members expressed concerns regarding the current situation in Clark County of the county District Attorney's Office not representing the county's Department of Family Services (DFS) in child welfare court cases in which the two entities do not agree on the actions taken in the case. Some Committee members were aware that this situation at times left the DFS without legal representation in court proceedings or caused two attorneys from the District Attorney's Office to participate in court proceedings – one to represent the DFS and another to represent the interests of the public.

Upon the request of the Committee, representatives from several national organizations provided testimony on the subject of legal representation of child welfare agencies. Judge Leonard Edwards, Judge-in-Residence with the California Administrative Office of the Courts, provided written testimony regarding which model of agency legal representation was preferred in his opinion. Judge Edwards recommended that prosecutors be removed from juvenile dependency court and funding instead be used to provide an attorney or guardian ad litem for every child. Judge Edwards discounted the value of utilizing a prosecutorial model of representation, in which attorneys from the local jurisdiction's legal counsel's office (Attorney General, District Attorney, County Attorney) represent the best interests of the public in child welfare proceedings, and expressed concern about the ability of an attorney to represent the interests of both the child welfare agency and the public. Nevada currently utilizes a prosecutorial model of legal representation, as prescribed in *Nevada Revised Statutes* 432B.510, but the model is implemented slightly differently in each of the three child welfare jurisdictions in the state.

The Committee heard testimony from Nina Williams-Mbengue, Program Director of the Children and Families Program of the National Conference of State Legislatures (NCSL), regarding the federal requirements for legal representation of children in the custody of the child welfare agency and the types of legal representation utilized by child welfare agencies in other states and jurisdictions.

Joanne M. Brown, a retired juvenile and family court judge from California and senior consultant with the Institute on Law and Public Policy, provided testimony through a financial grant for technical assistance from Casey Family Programs to NCSL. Judge Brown discussed the differences between the prosecutorial model of legal representation and the agency representation model, in which the attorneys from the local jurisdiction's legal counsel's office or the agency's own attorneys represent the agency in child welfare proceedings. Judge Brown testified that an agency representation model is the preferred model of legal representation because the prosecutorial model does not provide the child welfare agency with attorney-client privilege, which can benefit the court through the expertise and direction of the social workers involved. Judge Brown also indicated that the agency representation model aids the court in its case management by allowing it to expedite the safe reunification of

children with their families where appropriate, which allows the court more time to work with cases where the reunification process is prolonged.

The Committee received testimony from Marvin Ventrell, Executive Director of the Juvenile Law Society. Mr. Ventrell testified that three parties in child welfare proceedings need legal representation in order to have justice: the child, the parent or caregiver, and child welfare agency. Mr. Ventrell indicated that it was dangerous and inappropriate to suggest that an attorney could represent the interests of two of those parties at the same time. Mr. Ventrell testified that in a typical prosecutorial model of legal representation, the attorney does not represent the child welfare agency so when cases go to court, the agency is unrepresented. This situation was described as questionable by Mr. Ventrell because child welfare agencies are created by the state and charged with protecting children but their efforts are hampered without legal representation. Mr. Ventrell testified that the social workers are agents of the child welfare agencies and if agency attorneys disagree with the decisions of the social workers, it is their ethical duty to educate and discuss the issue with the principals of the agency. Mr. Ventrell indicated that it is not the prosecutor's job to second-guess the decisions of the agency and 'policing' the agency's decisions is completely beyond the prosecutor's scope of work. Mr. Ventrell also testified that he had observed chaotic results in attempts at conflict resolution in systems utilizing a prosecutorial model of legal representation. He noted that conflict resolution in a prosecutorial model is a voluntary action and there is often no requirement or impetus for it to happen.

Janice Wolf, Deputy Directing Attorney of the Children's Attorneys Project for the Legal Aid Center of Southern Nevada, testified that her organization represents approximately half of the children in foster care in Clark County and supports the agency representation model of legal representation. Ms. Wolf testified that agency decisions would be better, delays in cases could be avoided, and outcomes would be better for children if the child welfare agencies had representation.

Amber Howell, Deputy Administrator for DCFS, testified that in the rural counties of the state, for which DCFS provides direct child welfare services, the county District Attorneys normally provide representation for the agency in court cases but the agency also receives representation from the Attorney General's Office if there are differences of opinion with the District Attorneys. Ms. Howell testified that this structure works well for the agency. Kevin Schiller, Director of Washoe County Department of Social Services (WCDSS), provided testimony about the history of legal representation for child welfare agencies. Mr. Schiller testified that the current prosecutorial model of representation was developed as a result of a grand jury investigation of 11 child deaths that occurred between 1992 and 1995. Mr. Schiller testified that in 1995, Washoe County did not have attorneys for children in the child welfare system but has since seen the growth of the Children's Attorneys Project in the county, which now represents approximately half of the children in county custody. Mr. Schiller testified that his agency utilizes a team process to resolve legal disputes before the cases go to court and noted that the process has been quite successful in the years since he became Director. Jeff Martin, Chief Deputy District Attorney for the Washoe County

District Attorney's Office, testified that his office is satisfied with the legal representation model as it currently exists in Washoe County and agreed that the WCDSS and the Washoe County District Attorney's Office work well together. Mr. Martin testified that as long as the District Attorney's Office believes the WCDSS is representing the public's best interest, the District Attorney and the agency have attorney-client privilege and if they do not agree, Chapter 432B of *Nevada Revised Statutes* includes a procedure which allows the agency to request the assistance of the Attorney General's Office.

Teresa Lowry, Assistant District Attorney for the Clark County District Attorney's Office, provided testimony about the representation structure in Clark County. Ms. Lowry testified that the 1995 grand jury report, referenced by Mr. Schiller, emphasized that the family preservation goals of the WCDSS often did not coincide with the safety of the child. Ms. Lowry testified that Clark County DFS employees currently are not always social workers and sometimes do not have sufficient training to make critical decisions. Ms. Lowry indicated that Assembly Bill 356 (1997 Session) amended Chapter 432B of *Nevada Revised Statutes* to require representation of the public's interest, based largely on the recommendations of the 1995 grand jury report. Ms. Lowry testified that she has 82 examples of child welfare cases in which the District Attorney's Office is concerned about the decision making of DFS. Ms. Lowry invited the Committee to review the cases as well as the reports of children's deaths for the last three years in the county. Ms. Lowry testified that legal representation is not the issue in Clark County but rather adequate funding of the child welfare system, training for its caseworkers, and sustaining mental health and treatment resources. She indicated that the DFS and District Attorney's Office communicate about hundreds of cases on a regular basis but DFS's policies are deficient and the two entities do not have attorney-client privilege.

Donna Coleman, child welfare advocate, and Captain Vincent Cannito, Bureau Chief of the Las Vegas Metropolitan Police Department's Crimes Against Youth and Family Bureau, testified in favor of maintaining the current statute on legal representation. Captain Cannito also testified that his agency has 50 examples of cases in which DFS did not protect children and noted that he has offered to meet with and provide free training to DFS staff but has been rejected.

At the Committee's July 19, 2010, work session, representatives from the Clark County Manager's Office and District Attorney's Office testified that the two entities had begun a process of reviewing the 82 examples of cases that the District Attorney's Office had identified as containing questionable decision-making by the DFS. The County Manager's Office and District Attorney's Office representatives indicated that their review of the 82 cases would assist the entities in making any necessary changes to the DFS and that any future disputes between the DFS and the District Attorney's Office would be resolved by utilizing the dispute resolution process that the county put in place in January 2010. The County Manager's Office and District Attorney's Office requested that the Committee not take action on a recommendation to change statute regarding legal representation of the child welfare agencies and offered to provide a report to the 2011 Legislature on their progress in resolving disputes between the District Attorney's Office and DFS.

The Committee made the following recommendation:

Recommendation No. 5 - Issue a letter to Clark County requesting that the county report at a future meeting of the Committee on the progress of negotiations between the Clark County District Attorney's Office and the County Manager's Office regarding resolution of disputes over the role of the District Attorney in child protection cases. The Committee will request that the Legislative Commission order a special meeting of the Committee, to be scheduled during the first weeks of the 2011 Legislative Session.

A copy of the Committee's letter to the county is included in Appendix C.

The Committee's request of the Legislative Commission to authorize a special meeting of the Committee during the first weeks of the 2011 Legislative Session was approved by the Commission at its meeting on August 13, 2010.

E. TERMINATION OF PARENTAL RIGHTS

The Committee received testimony from John J. Cahill, Clark County Public Administrator, regarding the right of inheritance of children from parents who have had their parental rights terminated. Mr. Cahill testified that he recently had a case in which children could not inherit from a deceased parent because the parent's parental rights were terminated. Mr. Cahill testified that he finds the current situation and the statute, found in Chapter 128 of *Nevada Revised Statutes*, to be unjust to children in the state. Mr. Cahill's attorney, Michael Foley, from the Clark County District Attorney's Office, testified that many other states have adopted laws to allow children to inherit from their biological parents after termination of parental rights. Mr. Foley also testified that the issue arises when a parent whose parental rights are terminated dies in an accident and an insurance settlement is available but cannot be distributed to the children due to the current statute.

Richard L. Brown, Professor of Law Emeritus from the William S. Boyd School of Law at the University of Nevada Las Vegas, testified that he researched and published articles about this issue in several law reviews. Professor Brown testified that from his research, he concluded that state statutes should address inheritance rights clearly and not leave the matter open to interpretation. He also concluded that ending inheritance rights due to termination of parental rights seems to be counter to the goals of the federal child welfare system and statutes that end such rights may be in conflict with Constitutional provisions of equal protection. Professor Brown suggested that an amendment to Nevada's current statute should also allow children to inherit from the relatives of a parent whose parental rights are terminated, such as the child's biological aunts, uncles, or grandparents.

Jon Sasser, Legal Services Advocate from Washoe Legal Services, testified that he researched this issue from the standpoint of the child's ability to collect benefits through Social Security. Mr. Sasser testified that he concurs that current statute should be amended to specifically allow children to inherit from parents after a termination of parental rights. He testified that over 900 children in Clark and Washoe Counties are currently precluded from inheriting due to this statute. Mr. Sasser indicated that the Social Security Administration looks to state law for the definition of a child to determine if benefits should be paid to a descendent but to his knowledge, Social Security benefits are not currently being denied based upon Nevada's statute. Mr. Sasser testified that the statute should be clarified because Social Security benefits aid the child and also aid the child welfare system by reimbursing state or county expenses for foster care.

At the Committee's July 19, 2010, work session, the Committee was informed that Assemblywoman Mastroluca had previously submitted a bill draft request (BDR 116, 2011 Legislative Session) to address this issue. The Committee voted unanimously to include a statement of support in the Committee's final report for that BDR and the concept of amending statute to allow a child to inherit from a parent whose parental rights are terminated.

Recommendation No. 6 - Include a statement of support in the Committee's final report for BDR 116 (2011 Legislative Session), requested by Assemblywoman Mastroluca, regarding revising provisions relating to the termination of parental rights.

F. DISCLOSURE OF INFORMATION

The Committee received testimony at two of its hearings from Judge Francis Doherty of the Family Division of the Second Judicial District Court. Judge Doherty testified that the juvenile delinquency courts in the state are hampered by the lack of access to information from the juvenile dependency (child welfare) courts. Judge Doherty testified that Chapters 62 and 432B of *Nevada Revised Statutes*, which govern the handling of information in each court respectively, have confidentiality requirements that sometimes present problems for the juvenile delinquency courts. Judge Doherty testified that federal law, including the Juvenile Justice and Delinquency Prevention Act of 1974, contemplates that juvenile courts have full access to public child welfare records but juvenile courts still have trouble getting information.

Judge Doherty presented a set of recommendations, drafted by the American Bar Association House of Delegates, that pertain to juvenile delinquency courts and youth that "crossover" from the juvenile dependency court arena to the delinquency court arena. Three of the recommendations relate to information sharing between the juvenile dependency and juvenile delinquency courts.

At the Committee's work session, representatives from the Clark and Washoe County District Attorneys' Offices provided testimony about the possible impacts of the recommendations introduced by Judge Doherty. Jo Lee Wickes, Chief Deputy District

Attorney from the Washoe County District Attorney's Office, testified that information sharing between the child welfare system and the juvenile delinquency courts is necessary and helpful and she supports the recommendation to provide more information to the court. Ms. Wickes testified that she had concerns however with a recommendation that might affect the admissibility of evidence in court proceedings. Teresa Lowry, Assistant District Attorney for the Clark County District Attorney's Office, testified that she understood the need for judges to have as much information as possible but she would like the opportunity to study the recommendations in more detail to ensure their implementation does not conflict with other statutes or rules about confidentiality, admissibility of evidence, or court procedure.

Jeff Martin, Chief Deputy District Attorney for the Washoe County District Attorney's Office, testified on a recommendation regarding the closure of child welfare cases of youth in the juvenile delinquency court and indicated that juvenile dependency and delinquency courts currently collaborate in his jurisdiction on the closure of cases.

Ms. Wickes also testified on a recommendation to give judicial districts the discretion to allow a single judicial officer to address post adjudicatory delinquency dispositions in ongoing dependency cases, where appropriate. Ms. Wickes indicated that she was not aware of any prohibition to this concept in current statute.

Committee members, after hearing the testimony of the representatives from the District Attorneys' Offices, voted to take action on only one of the six recommendations considered:

Recommendation No. 8 - Draft legislation to amend Chapter 432 and 432B of NRS to allow child welfare records, including reports, recommendations, and orders, to be disclosed to the Juvenile Delinquency Court for child treatment, custodial and case planning purposes. (BDR 199)

G. PANDERING OF A CHILD

The Committee received testimony from a number of individuals regarding pandering and prostitution of children. At its February 9, 2010, meeting, the Committee heard testimony from Lieutenant Karen Hughes of the Las Vegas Metropolitan Police Department in which she outlined some of the department's history and her experiences in enforcing prostitution and child pandering laws in Las Vegas. Lieutenant Hughes testified that her unit rescued 155 youth involved in prostitution in 2009 and the enforcement units look for youth being forced into prostitution by pimps. Lieutenant Hughes indicated that the results her department sees are just a snapshot of a larger, hidden population involved in child prostitution. She added that current pandering statutes are not strong enough and need to be strengthened; that her unit often charges suspects with other associated crimes such as kidnapping or sexual assault because those crimes have stronger penalties than the penalties for pandering.

Orrin Johnson, Deputy Public Defender from the Washoe County Public Defender's Office, testified that the Committee should be careful when considering changing the penalties for pandering because the language of the pandering statutes is very broad. Mr. Johnson testified that a person that solicits a 17-and-a-half year old with fake identification in a bar should not be subject to the same penalty for pandering as someone trafficking 11 year old children.

Terri Miller, former Program Director of the Human Trafficking Task Force of Southern Nevada, testified that the statutes regarding pandering of children (*Nevada Revised Statutes* 201.300 – 201.340) should be "married" to those for trafficking of children (*Nevada Revised Statutes* 200.467 – 200.468) so that offenders can be held severely accountable.

Susan Roske, Chief Deputy Public Defender, Juvenile Division, Clark County Public Defender's Office, testified that any person involved with pandering is committing human trafficking under federal law. Ms. Roske indicated that federal law treats children involved with child prostitution as victims of human trafficking but under states' laws, children are charged with the same crimes of which they are victims. Ms. Roske testified that the Committee needed to address the treatment of victims of child prostitution; that more money is needed for better treatment facilities and resources for these children.

Teresa Lowry of the Clark County District Attorney's Office testified on behalf of the Clark County Juvenile Justice System Partners. Ms. Lowry testified that the organization plans to draft legislation which is comprehensive, broad reaching, and that has support of all the parties involved to combat the problem of child prostitution. Ms. Lowry testified that her organization's goal for proposed legislation would have three components: 1) provide immunity from prosecution to girls that are arrested for prostitution if they are under the influence of an adult; 2) put children involved with prostitution in the Children in Need of Supervision (CHINS) system; 3) place children involved with prostitution in a safe-house or secure facility for the treatment of sexually exploited girls. Ms. Lowry indicated that the draft legislation should address the three components, including use of the CHINS system, but should not preclude the use of current methods, such as holding children in the juvenile delinquency system, if a safe-house or other resources are not available.

Alexis Kennedy, Assistant Professor in the Department of Criminal Justice, University of Nevada, Las Vegas, also testified on behalf of the Clark County Juvenile Justice System Partners. Professor Kennedy provided statistics from a recent needs assessment she and her students conducted of girls held in county juvenile detention. Professor Kennedy testified that 88 percent of girls held for prostitution-related offenses had a history of running away from home; 57 percent had a formal diagnosis for a mental health issue; and the majority of the girls were using some type of illegal drugs. Professor Kennedy also testified that one third of the girls surveyed that were arrested for other crimes were also involved in prostitution.

At the request of the Committee, Sam Bateman, Chief Deputy District Attorney, Clark County District Attorney's Office, provided four recommendations for possible legislative action relating to pandering of children and child prostitution. Mr. Bateman indicated that the four recommendations were in response to the discussions the Committee had on the subject over the course of its meetings and two of the recommendations were concepts that he felt the District Attorneys around the state could support. Mr. Bateman testified that his office mainly prosecutes individuals involved with child prostitution under the statutes for pandering and living off the earnings of a prostitute. Mr. Bateman indicated that unlike other statutes relating to pandering, the current statute relating to living off the earnings of a prostitute (*Nevada Revised Statutes* 201.320) does not include an enhanced penalty if the person pandered is a child. Mr. Bateman also indicated that his office sometimes deals with multiple individuals that are conspiring to prostitute children so it would not be unreasonable to make pandering, trafficking, or solicitation of a child eligible for prosecution under statute relating to conspiracy.

The Committee generally agreed with Mr. Bateman's testimony and made the following two recommendations:

Recommendation No. 9 - Draft legislation to amend NRS 201.320 to make it a category B felony (consistent with the penalties for pandering provided in NRS 201.300, 201.330, and 201.340) for living from earnings of a prostitute when the prostitute is a child. (BDR 200)

Recommendation No. 10 - Draft legislation to amend subsection 1 of NRS 199.480 to add the crimes of pandering a child (NRS 201.300), pandering a child by furnishing transportation (NRS 201.340), trafficking of persons for financial gain (NRS 200.467), and solicitation of a child (subsection 3 of NRS 201.354), to the current list of offenses constituting category B felony conspiracy. (BDR 200)

H. BACKGROUND CHECKS

The Committee received a presentation from Jane Bailey, Audit Supervisor, and Sandra McGuirk, Deputy Legislative Auditor, of the Audit Division of the Legislative Counsel Bureau, on the division's review of governmental and private facilities for children in the state. Assembly Bill 629 (2007 Session) and Assembly Bill 103 (2009) authorized the Legislative Auditor to conduct performance audits of facilities in the state that house children to determine if the facilities protect the health, safety, and welfare of children in the facilities and whether the facilities respect the civil and other rights of children in their care. The Audit Division published a report in March 2010 of the reviews it conducted between November 2008 and December 2009 of 13 children's facilities, unannounced visits to 14 children's facilities, and surveys conducted with 50 children's facilities.

The primary recommendations in the Audit Division's report focus on the need to strengthen background check requirements of children's facilities. The report's findings

indicated that all of the 13 children's facilities reviewed by the auditors could improve their background check processes. The report's findings included issues such as:

- facilities did not conduct periodic post-employment background checks;
- facility policies did not address hiring employees with prior criminal histories;
- facilities had at least one employee who was not subjected to a background check or the results of the checks were not received by the facility;
- facilities' employee files did not contain the results of background checks; and
- facilities required background checks based only on names and social security numbers, without the submission of fingerprints.

The report also included other information about possibly isolated but troubling instances at facilities related to background checks.

The audit report provided detail about the six types of children's facilities that the auditors reviewed. The report included information about the various sections of *Nevada Revised Statute* or *Nevada Administrative Code* that address requirements for background checks at the different types of facilities. The audit report findings and the results of additional research performed by Committee staff indicated that there is little consistency currently between the requirements for background checks between the six types of facilities identified by the auditors. In general, statute and regulation were silent on some or all of the aspects of background checks described by the auditors. Representatives from the DCFS indicated to Committee staff however that agency policy does exist in many cases that addresses facility background checks.

Melissa Casal, representing the Children's Attorneys Project of the Legal Aid Center of Southern Nevada, testified that children sometimes run away from children's facilities because of mistreatment by staff or accept the mistreatment because they lack information about a formal grievance process and fear repercussions from speaking out about mistreatment.

Scott Shick, Chief Juvenile Probation Officer, Douglas County Juvenile Probation, testified that his agency appreciated the insights that the auditor's report provided and indicated that the Nevada Association of Juvenile Justice Administrators (NAJJA) was considering requesting legislation to standardize background check requirements for juvenile justice facilities in the state.

Committee members expressed great concern for the findings of the audit report and voted to recommend legislation to address all of the report's findings. The Committee made the following four recommendations:

Recommendation No. 11 - Draft legislation to amend the appropriate chapters of NRS to require all facilities that provide residential services to children, including:
(1) group foster homes which provide full-time care for 7-15 children (Chapter 424 of NRS),
(2) child care facilities or institutions (Chapter 432A of NRS),

- (3) mental health treatment facilities, which will include any medical facility, residential facility for groups, agency to provide personal care services in the home or home for individual residential care that provides residential mental health services to children (Chapter 449 of NRS),**
 - (4) substance abuse treatment facilities (Chapters 449 and 641C of NRS),**
 - (5) detention and correction facilities at the local and state levels (Chapters 62G and 63 of NRS), and**
 - (6) resource centers (TBD)**
- to obtain and receive the results of state and federal fingerprint background checks for all employees prior to allowing the employees to have independent unsupervised access to the children in those facilities. (BDR 201)**

Recommendation No. 12 - Draft legislation to amend the appropriate chapters of NRS (identified with group foster homes; substance abuse treatment facilities; detention and correction facilities; and resource centers under Recommendation #11 above) to specify the offenses for which a prior conviction would exclude a person from obtaining employment at a facility that provides residential services to children. Include offenses that currently prohibit a person from being employed by a child care facility under NRS 432A.170. (BDR 201)

Recommendation No. 13 - Draft legislation to require all facilities that provide residential services to children to maintain the results of the background check for each employee for as long as that person remains employed by the facility. This recommendation would amend the appropriate chapters of NRS (identified with group foster homes; mental health treatment facilities; substance abuse treatment facilities; detention and correction facilities; and resource centers under Recommendation #11 above) to provide a similar requirement such as the current law requiring child care facilities to maintain records of its employees under NRS 432A.1785. (BDR 201)

Recommendation No. 14 - Draft legislation to require background checks to be obtained periodically for persons remaining employed at a facility for a specified time. This recommendation would amend the appropriate chapters of NRS (identified with group foster homes; child care facilities or institutions; substance abuse treatment facilities; detention and correction facilities; and resource centers under Recommendation #11 above) to provide a similar requirement such as the current law requiring mental health treatment facilities to complete background checks for its employees every five years under NRS 449.179. (BDR 201)

IV. OTHER ISSUES CONSIDERED BY THE COMMITTEE

The Committee received testimony from representatives of the Washoe County District Attorney's Office and juvenile dependency court judges of the Second Judicial District regarding the disclosure of information pertaining to juvenile guardianships. Jeff Martin, Chief Deputy District Attorney from the Washoe County District Attorney's Office,

testified that Senate Bill 313 was passed by the 2009 Legislature and requires greater involvement of child welfare or social services agencies in guardianship cases. Mr. Martin testified that Chapter 159 of *Nevada Revised Statutes* was amended to require that physicians or the child welfare agency that performs investigations of child abuse and neglect provide a letter to accompany petitions for guardianship indicating: 1) that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention; 2) whether the proposed ward presents a danger to himself or others; and 3) whether the proposed ward is or has been subjected to abuse, neglect or exploitation. Mr. Martin testified that the amended statute creates a conflict with *Nevada Revised Statutes* 432B.280, which requires confidentiality of reports and records of child abuse and neglect investigations.

Mr. Martin provided the committee with a proposed amendment to *Nevada Revised Statutes* 432B.290 which would allow the disclosure of the information required by Chapter 159. Mr. Martin indicated that WCDSS was currently operating pursuant to an administrative order of the court to provide the required documentation and the proposed amendment codifies the current practice.

Committee members expressed concern about the requirement to release confidential information to persons requesting petitions of guardianship. Committee members were concerned about the prospect of information being released to persons who were not actually intending to file a petition for guardianship or information being released to the child involved in the case. Committee members recognized the conflict between the requirements of Chapters 159 and 432B of *Nevada Revised Statutes* but ultimately, after much discussion, decided not to take action on the issue.

V. CONCLUDING REMARKS

The Committee wishes to thank the many representatives from government agencies, non-profit organizations, and stakeholder groups, as well as private citizens, who contributed to the Committee's work through their correspondence and attendance or testimony provided at public hearings. The Committee also wishes to acknowledge the support of the National Conference of State Legislatures and Casey Family Programs for technical assistance provided to the Committee.

APPENDIX A

**LEGISLATION CREATING THE LEGISLATIVE COMMITTEE
ON CHILD WELFARE AND JUVENILE JUSTICE
SENATE BILL 3, 2009 SESSION**

Senate Bill No. 3—Committee on Legislative
Operations and Elections

CHAPTER.....

AN ACT relating to legislative affairs; creating the Legislative Committee on Child Welfare and Juvenile Justice; prescribing the powers and duties of the Committee; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 3 of this bill creates the Legislative Committee on Child Welfare and Juvenile Justice and provides for the appointment of its membership by the Legislative Commission. **Section 4** of this bill prescribes the manner in which meetings must be conducted by the Committee and provides for the compensation of its members. **Section 5** of this bill prescribes the duties of the Committee, including the evaluation and review of issues relating to child welfare services and juvenile justice in this State. **Sections 6 and 7** of this bill authorize the Committee to conduct investigations and hold hearings and provide for the administration of oaths, the deposition of witnesses and the issuance of subpoenas in connection with those investigations and hearings.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 218 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. *As used in sections 2 to 8, inclusive, of this act, unless the context otherwise requires, "Committee" means the Legislative Committee on Child Welfare and Juvenile Justice.*

Sec. 3. 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 select the Chairman and Vice Chairman of the Committee from among the members of the Committee. After the initial selection of those officers, each of those officers holds the position for a term of 2 years commencing on July 1 of each odd-numbered year. The Chairmanship of the Committee must alternate each biennium between the houses of the Legislature. If a vacancy occurs in the Chairmanship or Vice Chairmanship, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.*



3. *A member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve until the convening of the next regular session of the Legislature.*

4. *A vacancy on the Committee must be filled in the same manner as the original appointment.*

Sec. 4. 1. *The members of the Committee shall meet throughout the year at the times and places specified by a call of the Chairman or a majority of the Committee.*

2. *The Director of the Legislative Counsel Bureau or his 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 of the Legislature, 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 work of the Committee, the member is entitled to receive the:*

(a) *Compensation provided for a majority of the members of the Legislature 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 218.2207.*

↪ *The compensation, per diem allowances and travel expenses of the members of the Committee must be paid from the Legislative Fund.*

Sec. 5. *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 his 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.

Sec. 6. 1. The Committee may:

(a) Conduct investigations and hold hearings in connection with its duties pursuant to section 5 of this act;

(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 of the Legislative Counsel Bureau for transmittal to the Legislature a report concerning the evaluation and review conducted pursuant to section 5 of this act.*

Sec. 7. 1. *If the Committee conducts investigations or holds hearings pursuant to section 6 of this act:*

(a) *The Chairman of the Committee or, in his absence, a member designated by the Committee may administer oaths;*

(b) *The Chairman of the Committee may cause the deposition of witnesses, residing within or outside of this State, to be taken in the manner prescribed by rule of court for taking depositions in civil actions in the district courts; and*

(c) *The Chairman of the Committee may issue subpoenas to compel the attendance of witnesses and the production of books and papers.*

2. *If any witness refuses to attend or testify or produce any books and papers as required by the subpoena, the Chairman of the Committee may report to the district court by petition, setting forth that:*

(a) *Due notice has been given of the time and place of attendance of the witness or the production of the books and papers;*

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

(c) *The witness has failed or refused to attend or produce the books and papers required by the subpoena before the Committee which is named in the subpoena, or has refused to answer questions propounded to him,*

and asking for an order of the court compelling the witness to attend and testify or produce the books and papers before the Committee.

3. *Upon such petition, the court shall enter an order directing the witness 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 then and there show cause why he has not attended or testified or produced the books or papers before the Committee. A certified copy of the order must be served 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 appear before the Committee at the time and place fixed in*



the order and testify or produce the required books or papers, and upon failure to obey the order, the witness shall be dealt with as for contempt of court.

Sec. 8. *Each witness who appears before the Committee by its order, except a state officer or employee, is entitled to receive for his attendance the fees and mileage provided for witnesses in civil cases in the courts of record of this State. 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 Chairman of the Committee.*

Sec. 9. (Deleted by amendment.)

Sec. 10. This act becomes effective on July 1, 2009.



APPENDIX B
SUMMARY OF RECOMMENDATIONS

SUMMARY OF RECOMMENDATIONS
**LEGISLATIVE COMMITTEE ON CHILD WELFARE
AND JUVENILE JUSTICE**

Nevada Revised Statutes 218E.705

The following is a summary of the recommendations approved by the Legislative Committee on Child Welfare and Juvenile Justice during the 2009-2010 Legislative Interim at its July 19, 2010, meeting. At the meeting, the Committee conducted a work session and voted to forward six bill draft requests (BDRs) to the Legislative Commission for transmittal to the 76th Session of the Nevada Legislature in 2011. The Committee also voted to draft a letter to certain entities to request action on a specific issue and to include a statement of support for a BDR requested independently by one of the Committee members in the Committee's final report. A summary of each BDR, the letter, and the statement follow.

During the drafting process, specific details of the following proposals for legislation and letter may be further clarified by staff in consultation with the Chair or others, as appropriate. If a proposal for legislation or letter includes reference to specific chapters or statutes of the *Nevada Revised Statutes* (NRS), as part of the drafting process, amendments to other related chapters or sections of the NRS may be made to fully implement the proposals.

1. Draft legislation to authorize, but not require, the child welfare agencies in the state to establish a kinship guardianship assistance program, as allowed by the Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351). Amend NRS to require the Department of Health and Human Services (DHHS) to include in the state plan for child and family services a provision for kinship guardianship assistance payments in accordance with 42 U.S.C. §§ 671 and 673(d), including, without limitation, minimum requirements for the kinship guardianship assistance agreements, the amounts that may be paid pursuant to such agreements, additional services that may be provided and any other requirements prescribed by federal law. Further amend NRS to provide that child welfare agencies may, in accordance with the provisions of the state plan, enter into kinship guardianship assistance agreements. (See NRS 127.186 and 422A.650 for similar programs.) **(BDR 196)**

2. Draft legislation to amend NRS 127.060 to allow a court in Nevada to finalize the adoption of a child in the custody of a Nevada child welfare agency without regard to the state of residence of the proposed adopting parents, if the child welfare agency in the state of residence of the proposed adopting parents has agreed to the adoption. Also provide that the proposed adopting parents may attend the hearing in person or by telephone. **(BDR 197)**

3. Draft legislation to require the Division of Child and Family Services (DCFS) to develop a plan for the care of children during disasters in circumstances in which the local child welfare or juvenile justice agency is unable to respond to the needs of children. A summary of the plan must be submitted to the Legislative Committee on Child Welfare and Juvenile Justice and made available on the Internet website of the Division. **(BDR 198)**
4. Draft legislation to require the DCFS to adopt regulations relating to planning for children during disasters, which prescribe the elements of a disaster plan that must be in place for a foster home which provides care to a child in this state. **(BDR 198)**
5. Issue a letter to Clark County requesting that the county report at a future meeting of the Committee on the progress of negotiations between the Clark County District Attorney's Office and the County Manager's Office regarding resolution of disputes over the role of the District Attorney in child protection cases. The Committee will request that the Legislative Commission order a special meeting of the Committee, to be scheduled during the first weeks of the 2011 Legislative Session.
6. Include a statement of support in the Committee's final report for BDR 116 (2011 Legislative Session), requested by Assemblywoman Mastroluca, regarding revising provisions relating to the termination of parental rights.
7. Draft legislation to amend NRS 127.2827 to require that notice of a hearing to determine whether to include an order for visitation with a sibling in the decree of adoption of a child in the custody of an agency which provides child welfare services, must be provided to any interested party. Also, amend NRS 127.2827 to provide that a hearing to determine whether to include an order for visitation with a sibling must be held at a date and time other than when the petition for adoption is granted. **(BDR 197)**
8. Draft legislation to amend Chapter 432 and 432B of NRS to allow child welfare records, including reports, recommendations, and orders, to be disclosed to the Juvenile Delinquency Court for child treatment, custodial and case planning purposes. **(BDR 199)**
9. Draft legislation to amend NRS 201.320 to make it a category B felony (consistent with the penalties for pandering provided in NRS 201.300, 201.330, and 201.340) for living from earnings of a prostitute when the prostitute is a child. **(BDR 200)**
10. Draft legislation to amend subsection 1 of NRS 199.480 to add the crimes of pandering a child (NRS 201.300), pandering a child by furnishing transportation (NRS 201.340), trafficking of persons for financial gain (NRS 200.467), and solicitation of a child (subsection 3 of NRS 201.354), to the current list of offenses constituting category B felony conspiracy. **(BDR 200)**

11. Draft legislation to amend the appropriate chapters of NRS to require all facilities that provide residential services to children, including:
 - (1) group foster homes which provide full-time care for 7-15 children (Chapter 424 of NRS),
 - (2) child care facilities or institutions (Chapter 432A of NRS),
 - (3) mental health treatment facilities, which will include any medical facility, residential facility for groups, agency to provide personal care services in the home or home for individual residential care that provides residential mental health services to children (Chapter 449 of NRS),
 - (4) substance abuse treatment facilities (Chapters 449 and 641C of NRS),
 - (5) detention and correction facilities at the local and state levels (Chapters 62G and 63 of NRS), and
 - (6) resource centers (TBD)to obtain and receive the results of state and federal fingerprint background checks for all employees prior to allowing the employees to have independent unsupervised access to the children in those facilities. **(BDR 201)**

12. Draft legislation to amend the appropriate chapters of NRS (identified with group foster homes; substance abuse treatment facilities; detention and correction facilities; and resource centers under Recommendation #11 above) to specify the offenses for which a prior conviction would exclude a person from obtaining employment at a facility that provides residential services to children. Include offenses that currently prohibit a person from being employed by a child care facility under NRS 432A.170. **(BDR 201)**

13. Draft legislation to require all facilities that provide residential services to children to maintain the results of the background check for each employee for as long as that person remains employed by the facility. This recommendation would amend the appropriate chapters of NRS (identified with group foster homes; mental health treatment facilities; substance abuse treatment facilities; detention and correction facilities; and resource centers under Recommendation #11 above) to provide a similar requirement such as the current law requiring child care facilities to maintain records of its employees under NRS 432A.1785. **(BDR 201)**

14. Draft legislation to require background checks to be obtained periodically for persons remaining employed at a facility for a specified time. This recommendation would amend the appropriate chapters of NRS (identified with group foster homes; child care facilities or institutions; substance abuse treatment facilities; detention and correction facilities; and resource centers under Recommendation #11 above) to provide a similar requirement such as the current law requiring mental health treatment facilities to complete background checks for its employees every five years under NRS 449.179. **(BDR 201)**

APPENDIX C

**LETTER SENT TO CLARK COUNTY AT THE DIRECTION OF THE
LEGISLATIVE COMMITTEE ON CHILD WELFARE
AND JUVENILE JUSTICE**

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

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October 25, 2010

Ms. Virginia Valentine
Clark County Manager
500 S. Grand Central Parkway
Las Vegas, NV 89155

Mr. David Roger
Clark County District Attorney
200 Lewis Avenue
Las Vegas, NV 89101

Dear Ms. Valentine and Mr. Roger:

As I believe you are aware, the Legislative Committee on Child Welfare and Juvenile Justice heard presentations at its June 21, 2010, meeting regarding issues related to the legal representation of child welfare agencies in the state, pursuant to *Nevada Revised Statutes* 432B.510. The Committee discussed a recommendation to amend statute to require the District Attorneys in the state to represent the interests of the child welfare agencies in child welfare proceedings, as was previously proposed by Senate Bill 293 (2009 Legislative Session). Representatives from the Clark County District Attorney's Office testified at this meeting and informed the Committee of concerns the Office has with this recommendation. The District Attorney's Office representatives also voiced concerns about the decision making history of the Clark County Department of Family Services and referenced 82 examples of child abuse and neglect cases about which the Office has particular concern.

The Committee held its work session on July 19, 2010, to make recommendations for legislation for consideration by the 2011 Legislature. At that meeting, the Committee again received testimony from representatives of both of your Offices regarding the issues between the District Attorney's Office and the Clark County Department of Family Services. The representatives testified that a process had been initiated between your Offices to review the 82 cases identified by the District Attorney's Office and make any changes necessary to the policies of the Department of Family Services.

Moreover, the representatives testified that any future disputes between the District Attorney's Office and the Department of Family Services would be resolved using the dispute resolution process established by your two Offices in January 2010.

The suggestion was also made by representatives of your Offices at the July 19, 2010, meeting that the Committee not take action on the recommendation to amend *Nevada Revised Statutes* 432B.510 and instead allow your Offices time to work through the referenced issues and report back to the Legislature during the 2011 Legislative Session on the status of the situation. The Legislative Commission, at its August 13, 2010, meeting, directed the Legislative Committee on Child Welfare and Juvenile Justice to hold one additional meeting during the first weeks of the 2011 Legislative Session to receive the report from your Offices.

The Committee will contact your Offices prior to the start of the 2011 Legislative Session to schedule the date of the additional meeting. Please feel free to contact the Committee's staff, Rex Goodman, at 775-684-6821 if there are questions or concerns about the Committee's actions or your Offices' future presentation to the Committee.

Sincerely,

A handwritten signature in black ink that reads "Sheila Leslie". The signature is written in a cursive, flowing style.

Assemblywoman Sheila Leslie, Chair
Legislative Committee on Child Welfare and
Juvenile Justice

cc: Members, Legislative Committee on Child Welfare and Juvenile Justice
Diane Comeaux, Administrator, Division of Child and Family Services, DHHS
Mike Willden, Director, Department of Health and Human Services