

**MINUTES OF THE  
LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE**  
Wednesday, November 9, 2005 – 1:30 p.m. – Room W20 House Building

**Members Present:**

Sen. D. Chris Buttars, Chair  
Rep. DeMar "Bud" Bowman, Chair  
Sen. Allen Christensen  
Sen. Fred J. Fife III  
Sen. Mark B. Madsen  
Rep. Duane E. Bourdeaux  
Rep. D. Gregg Buxton  
Rep. LaVar Christensen  
Rep. Patricia W. Jones  
Rep. Todd E. Kiser

Rep. David Litvack  
Rep. Michael T. Morley  
Rep. Curtis Oda  
Rep. Paul Ray

**Staff Present:**

Mr. Stewart E. Smith, Policy Analyst  
Ms. Susan Creager Allred, Associate General Counsel  
Ms. Wendy Bangerter, Legislative Secretary

**Note:** A list of others present, copy of related materials, and an audio recording of the meeting can be found at [www.le.utah.gov](http://www.le.utah.gov).

**1. Committee Business**

Chair Bowman called the meeting to order at 1:45 p.m.

**MOTION:** Rep. Ray moved to approve the minutes of the October 19, 2005 meeting. The motion passed unanimously with Sen. Christensen, Sen. Fife, Rep. Christensen, and Rep. Litvack absent for the vote.

Chair Bowman noted the statutory reports that were provided in the committee packet for the committee members' review: 1) Drug Offender Reform Pilot Study and 2) Emergency Medical Services.

**2. Contracting for Prison Services**

Senator Howard Stephenson distributed and reviewed a document regarding prison privatization. He informed the Committee that there would be legislation prepared for the upcoming general session. The Utah Private Correctional Facilities Act was also distributed.

Mr. Scott Marquardt, President, MTC (Management and Training Corporation), distributed and reviewed his written comments, speaking in favor of allowing the operation of private prisons.

Mr. Mark Brnovich Sr., Director, CCA (Corrections Corporation of America), addressed the benefits of privatized prisons. He reviewed their value and their accountability system. He stated that it is the incentive of private facilities to come up with innovative and cost-effective ways to deliver a valuable public service.

Mr. Alvin Bronstien, ACLU, Director, National Prison Project, spoke in opposition to private correctional facilities. He stated that private facilities, contrary to what had been said, are more costly to the state, have a greater escape record and expose the state to unnecessary liability in cases of escape. He said that records also show there is a greater contraband problem and increased sexual assaults against inmates. He stated that the two largest privatization companies lobby for longer sentences. His main message is that the deprivation of liberty should not be driven by money.

Sen. Stephenson summarized his intent to present legislation at the general session. He stated that contracting has been successful in other states. He spoke favorably of the community-based treatment system recommended by Mr. Scott Carver, Executive Director, Department of Corrections.

**MOTION:** Rep. Morley moved that the Committee request the UDC (Utah Department of Corrections) provide a preliminary report to the Executive Offices and Criminal Justice Appropriations Subcommittee and a report to the 2006 Law Enforcement and Criminal Justice Interim Committee on the feasibility of implementing two private correctional facilities.

Rep. Morley spoke to the motion, noting that Title 64, Chapter 13d, "Private Correctional Facilities Act," contains statutes enabling the UDC to contract with a private provider to finance, acquire, construct, lease, or provide full or partial correctional services. He explained that the UDC report should:

- describe the methods that may be used to implement two privately operated correctional facilities in Utah, as well as the beneficial impact of using private prisons to meet future capacity needs of the state for minimum and medium secure level beds, and
- contain suggestions for narrowing the locations where two privately operated prisons could be constructed, how and when the Utah Department of Corrections could implement the facilities, the outcomes the state should expect from the operation of the two facilities, and any projected cost savings that the state may accrue.

The two facilities to be included in the study are:

- 1) A secure, 250-bed, privately operated correctional facility to house and provide residential behavioral modification and therapeutic treatment to individuals who have violated conditions of their probation or parole, and
- 2) A minimum/medium secure 500-bed, privately operated prison which focuses on intensive alcohol and other drug treatment, academics, and vocational training.

Rep. Morley noted that the study was not intended to have a fiscal note. He responded to questions from the Committee.

The motion passed with Sen. Fife, Rep. Bourdeaux, Rep. Buxton, Rep. Jones, and Rep. Litvack voting in opposition.

Mr. Scott Carver, Executive Director, Department of Corrections, stated that to obtain meaningful information would be a very involved, intensive process but that the Department could have a preliminary report before session.

Rep. Buxton suggested that private facilities be asked to complete the study instead of the state expending the money to do so.

### **3. Weapons Amendments**

Senator Mark Madsen introduced and reviewed "Weapons Amendments" as draft legislation to be considered by the Committee. It would remove the prohibition from a person with a permit to carry a loaded firearm in or on a vehicle when the vehicle is lawfully under the person's control and the firearm is carried in a certain way.

Mr. Charles Hardy, Gun Owners of Utah, assisted by Mr. Clark Aposhian, Utah Self-Defense Instructors' Network, made a presentation regarding the carrying of weapons in vehicles. Mr. Hardy spoke in favor of the bill, which he feels corrects some serious discrepancies in the current law.

Committee discussion followed.

**MOTION:** Sen. Madsen moved to approve "Weapons Amendments" as a committee bill. The motion passed with Rep. Jones and Rep. Litvack voting in opposition.

### **4. Expansion of DNA Database for Felony Sex Offenders**

Mr. Reed Richards, CODIS (Combined DNA Index System) working group and deputy county attorney in Weber County, explained the expansion of the DNA database to include juvenile felony sex offenders. He distributed and reviewed CODIS Program Overview. He stated that legislation will be presented at the 2006 General Session. He explained that funding comes from state appropriation and inmate fees, which has been adequate because the federal government has done most of the testing. He requested an increase of \$15 per test and the approval to extend the data base to include both felonies and all classes of misdemeanors.

Ms. Pilar Shortsleeve, State Crime Lab Forensic Biology Supervisor, explained the process of using DNA samples. She highlighted some case samples and how they were instrumental in apprehending criminals in the state. She noted that after Dec. 31, 2005, there will no longer be federal funds to test DNA samples and at the present time, the lab has 5,000 samples waiting to be tested.

**MOTION:** Rep. Bowman moved that the witness assist the committee chairs in writing a letter to the federal government requesting renewed funding. The motion passed unanimously with Rep. Buxton absent for the vote.

### **5. Domestic Violence and Dating Violence Amendments**

Representative David Litvack explained draft legislation, "Domestic Violence and Dating Violence Amendments." He stated that the bill focuses mostly on the civil, as opposed to the criminal, arena. The bill extends civil protective orders. He stated that this is just a small part of a larger community effort.

Ms. Sarah Sutherland, member of the work group for teen dating violence, explained that she has spoken to numerous high school students about dating violence. She is constantly approached by those who are

experiencing dating violence. She stated dating violence is becoming a larger issue, and that this legislation gives more legal footing to victims.

Ms. Debra Tabor, Utah PTA, Student Involvement Commissioner, explained that PTA has passed a resolution addressing teen dating violence and will continue to address the issue.

Mr. Stewart Ralphs, Legal Aid Society, spoke in favor of the bill. He reviewed the benefits of the legislation in helping people prevent a higher level of problems.

Committee discussion followed.

**MOTION:** Rep. Litvack moved to adopt "Domestic Violence and Dating Violence Amendments" as a committee bill. The motion passed unanimously with Rep. Buxton absent for the vote.

## **6. Mortgage Fraud**

Representative Paul Ray explained that upcoming legislation will make mortgage fraud a criminal offense. He explained that the legislation will include mortgage institutions requiring a BCI background check upon hiring mortgage and loan officers. He asked for committee support and invited legislators to cosponsor the bill being prepared for the 2006 General Session.

**MOTION:** Rep. Ray moved that the Committee support the concept of mortgage fraud legislation and recommend that Rep. Ray pursue the study of this issue. The motion passed unanimously with Rep. Buxton absent for the vote.

## **7. Dispatch Services Subcommittee Report**

This item was not discussed in depth, but Rep. Ray invited all to attend the final meeting of the Dispatch Services Subcommittee which will be held on Thursday, November 10, 2005 at 9:00 a.m.

## **8. Sentencing Commission Report**

The Sentencing Commission's report to the Committee was distributed.

## **9. Other Items/Adjourn**

**MOTION:** Rep. Bowman moved to adjourn the meeting. The motion passed unanimously with Rep. Buxton absent for the vote.

Chair Buttars adjourned the meeting at 4:33 p.m.