

**MINUTES OF THE
JUDICIARY INTERIM COMMITTEE**

Wednesday, October 18, 2006 – 9:00 a.m. – Room W130 House Building

Members Present:

Sen. Patrice M. Arent
Sen. Gregory S. Bell
Sen. Scott D. McCoy
Sen. Wayne Niederhauser
Rep. Douglas C. Aagard
Rep. Stephen D. Clark
Rep. Lorie D. Fowlke
Rep. Ann W. Hardy
Rep. Neal B. Hendrickson
Rep. David L. Hogue
Rep. Susan Lawrence
Rep. Ross I. Romero
Rep. LaWanna Shurtliff

Sen. Darin G. Peterson
Rep. Ben C. Ferry
Rep. Eric K. Hutchings
Rep. Scott L. Wyatt

Members Absent:

Sen. David L. Thomas, Senate Chair
Rep. James A. Ferrin, House Chair

Staff Present:

Mr. Jerry Howe, Policy Analyst
Ms. Esther Chelsea-McCarty, Associate General Counsel
Ms. A. Brooke Ollerton, Legislative Secretary

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Committee Business

At the request of Chair Ferrin, Rep. Romero chaired the meeting. He called the meeting to order at 9:06 a.m. and announced that the sex offender treatment report would be postponed until November.

MOTION: Rep. Hogue moved to approve the minutes of the September 20, 2006 meeting. The motion passed unanimously with Sen. Peterson, Sen. Thomas, Rep. Ferrin, Rep. Clark, Rep. Ferry, Rep. Shurtliff, and Rep. Wyatt absent for the vote.

2. Reports

Ms. Mary Lou Emerson, Director, USAAV (Utah Substance Abuse and Anti-Violence Coordinating Council), Commission on Criminal and Juvenile Justice, distributed "Fourth Annual DUI Report to the Utah Legislature" and reviewed the data for FY 2006 and calendar year 2005. She highlighted Utah's achievement of being the state with the largest reduction in DUI related deaths and maintaining the lowest rate of alcohol-related fatalities in the nation. She shared the experiences of several DUI victims and asserted that a DUI-related crash occurs in Utah every 4 1/2 hours. She outlined the data on the number of DUI arrests, the ages of DUI arrestees, and DUI arrests by county. USAAV believes that the best strategy to reduce the incidence of DUI is to prevent underage drinking. She thanked the Committee for its support on S.B. 58 and the resources to fight underage drinking.

Ms. Anna Kay Waddoups, Chair, DUI Subcommittee, USAAV, presented the Subcommittee's recommendations, which are (1) to clarify the statute regarding the ten-year look back period for determining charges in felony DUIs, (2) to amend the statute regarding the ten-year look back period for interlock- and alcohol-restricted drivers, (3) to create an FTE for handling restricted driver cases at the Driver License Division, (4) to revoke the driver license of an interlock-restricted driver who is convicted of operating a vehicle without an ignition interlock system, and (5) to continue to fund Utah's underage drinking media and education campaign.

Mr. Art Brown, President, Utah MADD (Mothers Against Drunk Driving), pointed out that the rate of DUI-related crash fatalities in Utah has been reduced three times in ten years. He commended USAAV for its work and thanked the Legislature for its efforts.

3. Domestic Relations

Rep. Fowlke introduced 2007 General Session draft legislation, "Child Support Bond." She explained that the bill would allow the court to require a delinquent child support obligor to post a bond up to the equivalent of 36 months of child support payments. She answered questions about the definition of terms in the bill and details of bonding.

Rep. Lawrence expressed concern that an obligor in dire financial straits has no way to finance a bond and would be left worse off. Rep. Fowlke responded that an obligor has the right to petition the court for a temporary stay of the bond. She mentioned that she would approve amending the language to read "up to 36 months" to allow leeway in different cases.

Ms. Delane England, citizen, said that ORS (Office of Recovery Services) has sufficient power to collect child support and the best solution would be to work with parents to aid them in fulfilling their responsibilities.

Mr. Stewart Ralphs, Director, Legal Aid Society of Salt Lake, said his organization strongly supports the bill. He clarified that the courts, not ORS, will implement the provisions in the bill after a due process hearing. The bill would address only a small section of people who have assets and have been delinquent on child support payments.

MOTION: Rep. Lawrence moved to amend "Child Support Bond" on line 64 after "in an amount," by deleting "equal to the total of" and inserting "of up to." The motion passed unanimously with Rep. Clark, Rep. Ferry, and Rep. Wyatt absent for the vote.

Mr. Rick Schwermer, Administrative Office of the Courts, said that the courts have not taken a position on this bill.

MOTION: Sen. McCoy moved to adopt "Child Support Bond" as amended as a committee bill. The motion passed unanimously with Rep. Clark and Rep. Ferry absent for the vote.

Sen. Bell introduced 2007 General Session draft legislation, "Child Support Guidelines," explaining that there are several aberrations in the current child support tables. The single parent tables, which have not been adjusted since 1994, are unjustifiably low while the joint income ceiling is \$10,000 and needs to be extended. He explained that the bill increases the guidelines by no more than 25 percent in any group and clarified that ORS has no position on this bill.

Mr. Mark Brasher, Director, ORS, illustrated the increase in child support guidelines using the proposed tables. He said that to bring amounts for the first child up to the other levels, support would have to be increased 60 percent. Sen. Bell asked for a less drastic table with a maximum increase of 25 percent. Mr. Brasher outlined amendments made in the senate last year. Sen. Bell and Mr. Brasher answered questions about the tables.

Mr. Russell Galt, citizen, thanked Sen. Bell for his efforts. He stated concern that if child support payments increase, but the payer's income remains unchanged, the payer may not be able to make the payments.

Mr. Ralphs pointed out that the current Utah income guidelines are 30 years old and that the burden of making up the difference in the guidelines often falls to the custodial parent. He added that guidelines are not mandatory, but the court has discretion within the guidelines.

Ms. Lori Nelson, Jones & Waldo, said that the bill is important because there are people who have significant incomes who are not included in the guidelines that end at \$10,000. She asserted that it is critical to increase those guidelines to provide adequate support for children.

MOTION: Sen. Bell moved to amend "Child Support Guidelines" by moving all dates one year forward. The motion passed unanimously.

MOTION: Rep. Fowlke moved to approve "Child Support Guidelines" as amended as a committee bill. The motion passed unanimously with Sen. McCoy absent for the vote.

Rep. Julie Fisher introduced 2007 General Session draft legislation, "Expedited Parent-Time Enforcement." She explained that the bill would convert the pilot co-parenting mediation program to a statewide program. It would require a fiscal note of \$235,000.

Mr. Schwermer reminded the Committee that this bill applies when there is an alleged violation of visitation. He stressed that the value of mediation is that it addresses underlying issues and has therefore been successful. In explaining the fiscal note, he said that three FTEs were needed to expand the program.

Mr. Ralphs said he advises his clients to participate in mediation and that his organization strongly supports the bill.

MOTION: Rep. Shurtliff moved to adopt "Expedited Parent-Time Enforcement" as a committee bill. The motion passed unanimously with Sen. McCoy, Rep. Ferry, and Rep. Hutchings absent for the vote.

Staff distributed 2007 General Session draft legislation, "Child Support Collection Amendments." Rep. Fisher introduced the bill, explaining that it gives the non-custodial parent the option to have income withheld by an electronic process.

Mr. Brasher answered questions about the process.

MOTION: Rep. Wyatt moved to adopt "Child Support Collection Amendments" as a committee bill. The motion passed unanimously

Rep. Fisher introduced 2007 General Session draft legislation, "Driver License Privilege Suspension for Failure to Pay Child Support." She pointed out that the Auditor General's 2005 report recommended this as an additional tool for ORS to recover child support. She responded to questions from the Committee.

Staff distributed handouts "HB 83 Driver License Privilege Suspension" and "Sections of 'A Performance Audit of the Office of Recovery Services.'"

Ms. Kim Gibb, Driver License Division, stated that the bill provides a tool to collect child support from those who have the means to pay but choose not to. She added that the value of having ORS recommend suspension of a driver license is that it is already working with the non-custodial parent.

Ms. Lori Russell, citizen, explained that in her experience with delinquent non-custodial parents, tough measures have to be enforced to protect children.

Ms. Jennifer Kershaw, citizen, said that in child support payment issues, the focus needs to be shifted from concern over the rights of the non-custodial parent to concern for the welfare of the children.

Ms. Pamela Atkinson, community advocate, said that often when non-custodial parents fail to pay, the custodial parent and children end up homeless. This bill, she said, would help ensure that non-custodial parents pay their obligations.

Ms. Karen Crompton, Director, Voices for Utah Children, said that 36 other states have implemented similar provisions and that her organization supports the bill.

Mr. Ralphs said that if the ORS is given the power to suspend licenses, it will help custodial parents who are unable to pay court fees to enforce child support payment.

MOTION: Sen. Bell moved to adopt "Driver License Privilege Suspension for Failure to Pay Child Support" as a committee-recommended bill. The motion passed with Sen. Peterson voting in opposition and Sen. McCoy absent for the vote.

4. Insurance Arbitration Amendments, 2005 General Session

Rep. Romero stated that since the senators needed to leave, the Committee would wait until the November meeting to discuss this issue.

5. Other Items / Adjourn

MOTION: Rep. Shurtliff moved to adjourn. The motion passed unanimously with Sen. Arent, Sen. Bell, and Rep. Ferry absent for the vote.

Rep. Romero adjourned the meeting at 11:58 a.m.