

**MINUTES OF THE
JUDICIARY INTERIM COMMITTEE**

Wednesday, April 18, 2009 – 2:00 p.m. – Room W130 House Building

Members Present:

Sen. Gregory S. Bell, Senate Chair
Rep. Douglas C. Aagard, House Chair
Sen. Peter C. Knudson
Sen. Ross I. Romero
Rep. Sheryl L. Allen
Rep. Jim Bird
Rep. Jackie Biskupski
Rep. Lorie D. Fowlke
Rep. Neil A. Hansen
Rep. Eric K. Hutchings
Rep. Christine A. Johnson
Rep. Kay L. McIff

Rep. Scott L Wyatt
Rep. Mark A. Wheatley

Members Absent:

Sen. Lyle W. Hillyard
Rep. Kevin S. Garn
Rep. Keith Grover

Staff Present:

Jerry D. Howe, Policy Analyst
Esther Chelsea-McCarty, Associate General Counsel
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

Chair Aagard called the meeting to order at 2:15 p.m. and committee members introduced themselves.

MOTION: Rep. Biskupski moved to approve the minutes of the November 15, 2006 meeting. The motion passed unanimously with Sen. Romero and Rep. Hutchings absent for the vote.

2. Potential Interim Study Items

A. Discussion of Master Study Items

Sen. Scott McCoy described reporting on appellate court rulings, the legal status of nonbiological parents, and wrongful death designations from "Master Study Resolution Items - Judiciary," which was included in the mailing packet.

Chair Aagard asked for a brief description of each item on the master study resolution item list.

Ms. Chelsea-McCarty described item 115, criminal case judgment collections.

Mr. Rick Schwermer, Administrative Office of the Courts, clarified the difference between restitution, criminal fines, and judgments as it related to item 115.

Mr. Wally Bugden, author, distributed "Crimes, Truth and Videotape: Mandatory Recording of Interrogations at the Police Station," and described item 116. He asked the Committee to consider legislation requiring the videotaping of custodial interrogations at the police station because it is helpful for both parties in the judicial setting.

Rep. Tim Cosgrove explained item 117, child custody evaluators, and raised questions about cost, accountability, and training standards.

Rep. Carl Wimmer introduced item 118, regarding guidelines in determining custody in cases where one parent has been convicted of a sexual offense involving a minor.

Ms. Kim Shirra, citizen, told the Committee about her experience with a child custody determination and sex offenders.

Sen. Bell outlined items 119 through 121, custody relationships, enforcing child visitation orders, and parent-time, respectively.

Mr. Todd Stone, citizen, suggested that the Committee create a body to oversee issues affecting noncustodial parents. He also addressed temporary reductions in child support and qualification for leave under the Family Medical Leave Act.

The Committee discussed the creation of a working group or subcommittee to discuss family law issues.

Chair Aagard described item 126, surcharge cycle, saying that cities are often required to remit surcharges to the state before they have a definite accounting of what the charges are.

Sen. Hillyard asked to add to the list of study items a discussion of cohabitation and alimony.

B. Prioritize Items for Interim Study

Chair Aagard asked committee members to prioritize the items and return their ballots to staff.

C. Discussion of Other Recommendations

Rep. McIff referred the Committee to "Department of Corrections, FY '08 Base Budget Presentation," which was included in the mailing packet, and explained the problems arising from the increase in penalties. He referred to an article he wrote, "Getting Smart As Well As Tough On Crime," which was also distributed in the mailing packet. He mentioned that the Office of Legislative Research and General Counsel is working to identify all of the incidents of increased penalties over the last twenty years.

Rep. Bird asked how DORA (Drug Offender Reform Act) would affect the growing prison population resulting from increased penalties.

Mr. Thomas Patterson, Executive Director, Department of Corrections, said that he was pleased that DORA had been funded and believed that it would be effective.

Mr. Mike Haddon, Deputy Director of Administration, Department of Corrections, said that DORA's effect is not yet known.

Ms. Chelsea-McCarty gave the Committee an overview of the effort to recodify Title 78 in the last interim, referring the Committee to "Recodification Outline Title 78," which was included in the mailing packet.

The Committee asked staff to continue the recodification of Title 78.

3. S.B. 152, Presumptive Personal Representative

Sen. Bell introduced 2007 General Session S.B. 152, "Presumptive Personal Representative," explaining that the bill provides for a personal representative who may present and resolve claims for wrongful death, liability, and uninsured motorist claims.

Mr. Chris Purcell, State Farm Insurance, spoke in favor of the bill and mentioned that both the Plaintiffs and Defense Bar also support it.

MOTION: Sen. Knudson moved to recommend S.B. 152 as a committee bill.

Sen. Romero said that he wanted to explore the issue of nontraditional couples before voting on the bill. Sen. Bell replied that the bill is silent on nontraditional couples, but that he did not mind discussing the issue or someone running a separate bill.

Sen. Knudson withdrew his motion to recommend S.B. 152.

4. Review of statutory reports and sunset review.

Mr. Howe referred the Committee to "Statutory Reports and Reviews," which was included in the mailing packet. He asked the Committee if these reports were helpful and how often it would like to receive them.

Sen. Bell suggested that the Committee would respond to the usefulness and timing of each report as they are presented in future interim meetings.

5. Adjourn / Other Business

MOTION: Sen. Knudson moved to adjourn. The motion passed unanimously with Rep. Hansen absent for the vote.

Chair Aagard adjourned the meeting at 3:53 p.m.