

**MINUTES OF THE
JUDICIARY INTERIM COMMITTEE**

Wednesday, September 19, 2007 – 2:00 p.m. – Room W130 House Building

Members Present:

Sen. Gregory S. Bell, Senate Chair
Rep. Douglas C. Aagard, House Chair
Sen. Lyle W. Hillyard
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. R. Curt Webb
Rep. Mark A. Wheatley

Members Absent:

Sen. Peter C. Knudson
Rep. Kevin S. Garn
Rep. Keith Grover

Staff Present:

Jerry D. Howe, Policy Analyst
Esther Chelsea-McCarty, Associate General Counsel
Amanda K. Majers, 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 2:14 p.m. He introduced Rep. Webb, a new member of the Committee, and Amanda Majers, the new staff secretary. Sen. Knudson was excused from the meeting.

MOTION: Sen. Hillyard moved to approve the minutes of the July 18, 2007 meeting. The motion passed unanimously with Rep. Fowlke, Rep. Johnson, and Rep. McIff absent for the vote.

2. Proposal Regarding Justice Courts

Justice Ronald E. Nehring, Utah Supreme Court, presented the following goals of the Utah Judicial Council's Committee on Justice Courts: (1) to promote judicial independence; (2) to increase public trust and confidence; and (3) to preserve the ability of local government to maintain a local court system. Next, Justice Nehring addressed the obstacles faced by the justice courts which include public perceptions that justice courts act as revenue generating entities for local governments, that their sentencing practices are seen as disproportionate and erratic, and that judicial selections are considered political rather than merit based. Justice Nehring proposed solutions to these obstacles which are to uncouple the money and the judge, make the selection process more merit based, require justice court judges to stand for retention elections, and attract and retain good judges. Finally, he discussed the implementation of these solutions which include justices being paid a fixed salary by the State of Utah, creating a Justice Court Selection Committee in each judicial district, standardizing all justice court judges' terms of office and educational requirements, and moving to a full-time justice court system.

Mr. Dan Becker, Court Administrator, Administrative Office of the Courts, enumerated the vital challenges and changes facing the justice courts, and explained why the Judicial Council conducted the justice court study.

Justice Nehring and Mr. Becker answered questions from the Committee.

Mr. Lincoln Shurtz, Utah League of Cities and Towns, expressed concern about municipal judges becoming state employees, and about the proposal to eliminate part-time justice court judges. Mr. Shurtz supported the proposal to require justice court judges to have four year degrees. He further recommended that justice court judges be nominated at the local level, and that retention elections be held every four years in the municipality in which the judge is serving. Mr. Shurtz advised that the city or county that hires the judge should set the judge's initial pay and then increase it by the municipality's regular annual pay increase. He emphasized that municipalities need to have control over their finances to insure that they are able to control the cost of administering the courts. Mr. Shurtz concurred with the Judicial Council's proposal to enhance the court's information sharing capabilities.

Mr. Adam Trupp, Utah Association of Counties, stated that he was comfortable with the goals of the proposal, but indicated that more investigation is needed to uncover the challenges facing justice courts.

Mr. Shurtz and Mr. Trupp answered questions from the Committee. Sen. Romero requested that the Utah League of Cities and Towns provide specific recommendations on this subject at a future committee meeting.

3. Sunset Review - Administrative Office of the Courts

Mr. Jerry Howe explained that a committee may extend a sunset date for any length of time, but generally not longer than 10 years.

MOTION: Sen. Romero moved to extend the sunset date for the Administrative Office of the Courts for 10 years. The motion passed unanimously with Rep. Fowlke, Rep. Johnson, and Rep. McIff absent for the vote.

4. Working Group on Divorce Issues - Report

Sen. Bell reported on the progress of the informal working group that he formed to discuss child custody and parent time issues.

5. Child Custody Amendments

Sen. Bell discussed 2008 General Session draft legislation, "Custody Amendments," that proposes to change the word "custody" to "parental responsibility" within the context of divorce. He contends that the word "custody" is inflammatory and often has the connotation of "I won" especially when used in divorce cases.

6. Child Support Guidelines - Report

Mr. Stewart P. Ralphs, Legal Aid Society of Salt Lake, explained that he will bring written recommendations to the Committee in November that propose to expand the time frame that the Child Support Guidelines Advisory Committee is impaneled, to change the child support amount for one child to closer approximate the guidelines for 2-6 children, to implement a sliding scale for the total child

support amount, to increase accountability of the expenditures of child support, and to implement shared responsibility of child travel costs.

7. Wrongful Death Amendments

Sen. Scott D. McCoy distributed and discussed 2008 General Session draft legislation, "Wrongful Death Amendments," to the Committee. Sen. McCoy's bill focuses on filling the gap in the current law to include non-traditional families. Under the current law spouses, children, step-children, and parents have standing to bring a wrongful death suit; however, it does not include non-traditional families.

Sen. McCoy's bill proposes to extend the statute to include non-married couples who have named their partner as a wrongful death designee in a valid will, trust, or notarized directive.

Sen. McCoy answered questions from the Committee, and entertained suggestions for improvements in the draft legislation.

8. Title 78 Recodification

Ms. Chelsea-McCarty distributed and discussed "Utah Code Sections 78-11-4, 78-11-5, 78-7-4, and 78-12-29," as well as, "Title 78A - Judiciary and Judicial Administration." Ms. Chelsea-McCarty updated the Committee on the progress of the recodification of Title 78, and anticipated bringing seven more chapters by the October meeting, as well as a series of charts to show the cross-references and the renumbering of the sections by November. She also asked the Committee to consider whether sections 78-11-4 and 78-11-5 still need to be included in the Utah Code.

9. Adjourn / Other Business

MOTION: Rep. Bird moved to adjourn the meeting. The motion passed unanimously with Sen. Hillyard, Sen. Romero, Rep. Allen, Rep. Biskupski, Rep. Fowlke, Rep. Hansen, Rep. McIff, and Rep. Wheatley absent for the vote.

Chair Aagard adjourned the meeting at 3:57 p.m.