

**MINUTES OF THE
JUDICIARY INTERIM COMMITTEE**

Wednesday, October 17, 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. Peter C. Knudson
Sen. Ross I. Romero
Rep. Sheryl L. Allen
Rep. Jim Bird
Rep. Jackie Biskupski
Rep. Lorie D. Fowlke
Rep. Kevin S. Garn
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:

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 Bell called the meeting to order at 2:18 p.m.

MOTION: Rep. Bird moved to approve the minutes of the June 20, 2007 and the September 19, 2007 meetings. The motion passed unanimously with Rep. Garn, Rep. Hutchings, and Rep. McIff absent for the vote.

2. Review of Statutorily Required Reports

A. Sex Offender Treatment

The Sex Offender Treatment report was not heard at this meeting; however, representatives from CCJJ (Utah Commission on Criminal and Juvenile Justice) gave a DUI report.

Ms. Mary Lou Emerson, Director, USAAV (Utah Substance Abuse and Anti-Violence Coordinating Council), CCJJ, distributed and discussed "Utah Commission on Criminal and Juvenile Justice: Fifth Annual Preliminary DUI Report to the Utah Legislature," which reported on DUI related fatalities, arrests, adjudications, and sanctions. Ms. Emerson also introduced Utah's impaired driving media campaign, which features billboards, coasters, napkins, and life-size cutouts of police officers designed to change Utah citizen's perceptions and behaviors regarding driving under the influence of alcohol.

Ms. Anna Kay Waddoups, USAAV Chair, recommended that the Legislature adopt the plea of "Impaired Driving," which is a class B misdemeanor to be used in place of alcohol or drug-related reckless driving for negotiated pleas or for reductions. Ms. Waddoups explained that the impaired driving plea is intended

to be used as an incentive for the completion of court-ordered requirements. She also discussed recommended amendments to the DUI statutes.

Sen. Hillyard suggested that CCJJ add the following provisions to its proposed DUI legislation: (1) reimburse bars for the bounty fees paid to bartenders who confiscate forged state drivers licenses and state identification cards, (2) equalize laws that govern the sell of alcohol at a discount, (3) provide for parental notification of minors arrested for alcohol related offenses, and (4) forbid the sale of cold beer at convenience stores because it encourages the drinking of alcohol while driving.

B. Child Support Guidelines

Mr. N. Adam Caldwell, Chair, UCSGAC (Utah Child Support Guidelines Advisory Committee), and Mr. Stewart Ralphs, Co-Chair, UCSGAC, distributed and discussed "Recommendations of the 2007 Utah Child Support Guidelines Advisory Committee." Mr. Caldwell recommended the following: (1) amend Utah Code section 78-45-7.13 to provide future child support guidelines advisory committees additional time to complete its statutory mandate and purpose, (2) increase the guideline amounts for one child, (3) provide for parent-time offsets to account for parent-time spent with the non-custodial parent, (4) adopt both the increase for one child and parent-time offsets together, (5) establish the presumption that parents equally divide transportation duties, (6) maintain the proportionality of child care expenses, (7) maintain the proportionality of medical expenses, (8) increase the accountability for child support, and 9) better account for a change in circumstances.

Mr. Caldwell and Mr. Ralphs answered questions from the Committee concerning the UCSGAC's recommendations.

Mr. Tony Curtis, member of UCSGAC, discussed "2007 Child Support Guidelines Advisory Committee Minority Report #1," which was distributed with "Recommendations of the 2007 Utah Child Support Guidelines Advisory Committee." Mr. Curtis expressed concern that an increase in child support for families with one child would result in an average child support increase of 47 percent with increases of 57 percent for median income families. He further stated that there should not be a link between adopting the parent-time offsets and increasing the guideline amount for one child.

Sen. Hillyard also expressed concerned with tying the parent-time offsets with the increase in the guideline amount for one child.

Mr. Mark Brasher, Director, ORS (Office of Recovery Services), expressed concern with UCSGAC's parent-time recommendation, and requested that there be an exemption for ORS concerning parent-time when custody is not established at the time child support is set. He also contended that changing the definition of permanent from 12 months to 6 months would put a burden on ORS because there would be more requests for reviews and adjustments.

Ms. Ann Curtis, citizen, expressed concern with changes to child support guidelines which often have violent impacts in society; namely, domestic violence resulting from arguments concerning child support issues.

3. Draft Legislation, "Child and Family Protection"

Rep. Lorie D. Fowlke distributed and discussed 2008 General Session draft legislation, "Child and Family Protection," an amendment to the criminal code establishing those who encourage the dislocation of children from their families as committing a form of child abuse.

Mr. Roger Hoole, private attorney, endorsed the draft legislation, and expressed the need for the legislation in relation to the young men who have been kicked out of the Fundamentalist Church of Latter Day Saints community because they are competition to the older men in the church who are seeking additional wives.

Chair Bell inquired if the draft legislation would affect those parents who simply abandon custody of a child.

Rep. Fowlke replied that the bill arranges for circumstances where parents leave the child in the care of someone else.

MOTION: Rep. Fowlke moved to adopt 2008 General Session draft legislation, "Child and Family Protection." The motion passed unanimously with Sen. Hillyard, Rep. Allen, and Rep. Biskupski absent for the vote.

4. Draft Legislation, "Exoneration and Innocence Assistance"

Mr. Creighton Horton, Attorney General's Office, distributed and discussed 2008 General Session draft legislation, "Exoneration and Innocence Assistance."

MOTION: Rep. Hansen moved to adopt 2008 General Session draft legislation, "Exoneration and Innocence Assistance." The motion passed unanimously with Sen. Hillyard, Rep. Allen, Rep. Biskupski, and Rep. Johnson absent for the vote.

5. Title 78 Recodification

Ms. Chelsea-McCarty discussed 2008 General Session draft legislation, "Title 78 Recodification," which was mailed to the committee members prior to the meeting. Ms. Chelsea-McCarty answered committee questions.

6. Adjourn / Other Business

MOTION: Rep. Webb moved to adjourn the meeting. The motion passed unanimously with Sen. Hillyard, Rep. Biskupski, and Rep. Johnson absent for the vote.

Chair Bell adjourned the meeting at 4:12 p.m.