

**MINUTES OF THE  
JUDICIARY INTERIM COMMITTEE**

Wednesday, November 14, 2007 – 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. Eric K. Hutchings  
Rep. Christine A. Johnson  
Rep. Kay L. McIff  
Rep. R. Curt Webb

**Members Absent:**

Sen. Lyle W. Hillyard  
Rep. Kevin S. Garn  
Rep. Keith Grover  
Rep. Neil A. Hansen  
Rep. Mark A. Wheatley

**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](http://www.le.utah.gov).

**1. Committee Business**

Chair Aagard called the meeting to order at 2:20 p.m.

**MOTION:** Sen. Bell moved to approve the minutes of the October 17, 2007 meeting. The motion passed unanimously with Rep. Allen absent for the vote.

**2. Reports**

**A. Sex Offender Treatment**

Ms. Chris Mitchell, Director of Research, CCJJ (Utah Commission on Criminal and Juvenile Justice) distributed and discussed "Sex Offender Treatment in Utah: November 2007." She informed the Committee that a sex offender, when sentenced to prison, is required to complete a sex offender treatability assessment, which is used to individualize and target treatment to address the sex offender's problem areas, risks, and motivations. She also discussed the expenditures of the sex offender treatment program, and stated that the lack of adequate funding for the rising sex offender inmate population has delayed the progress of treatment and may possibly contribute to a sex offender receiving an earlier parole release date. Finally, Ms. Mitchell reported on the relationship between sex offender treatment and recidivism, and stated that treatment programs significantly reduce recidivism by an average of 14.9%.

**B. Child Welfare Legislative Oversight Panel**

Staff distributed "Child Welfare Legislative Oversight Panel 2007 Annual Report: Recommendations."

**C. Working Group**

Rep. Julie Fisher discussed 2008 General Session draft legislation, "Expedited Parent-Time Enforcement," which was distributed to the Committee prior to the meeting.

Ms. Kathy Elton distributed and discussed "Utah's Third District Pilot Co-parenting Mediation Program: Report to the Utah State Legislature."

**MOTION:** Rep. Biskupski moved to adopt 2008 General Session draft legislation "Expedited Parent-time Enforcement." The motion passed unanimously with Rep. Allen absent for the vote.

Rep. Fowlke distributed and discussed 2008 General Session draft legislation, "Parent-time Amendments" and "Parent-time Schedule for Noncustodial Parent."

**MOTION:** Rep. Fowlke moved to amend 2008 General Session draft legislation, "Parent-time Amendments," as follows, to insert "is appropriate" after "children" on line 146 and delete "is appropriate" from line 147. The motion passed unanimously with Rep. Allen absent for the vote.

Mr. Stewart Ralphs, Director, Legal Aid Society of Utah, spoke in favor of "Parent-time Amendments," and stated that it will resolve disputes between custodial and non-custodial parents and maximize non-custodial parent-time. He also recommended the following: (1) changing the language on line 216 "if the child is comfortable with that individual" because it creates an opportunity for parents to disagree and seek litigation, (2) removing snow days from line 220, since they are not known in advance and can create problems in scheduling when included with holiday or weekend time, and (3) clarifying the language on line 328 as it allows one parent to dictate the scheduling of extended parent-time for the other parent.

**MOTION:** Rep. Fowlke moved to adopt 2008 General Session draft legislation "Parent-Time Amendments" as a committee bill.

**SUBSTITUTE MOTION:** Sen. Bell moved to continue to the next agenda item. The motion passed unanimously with Rep. Allen absent for the vote.

### **3. Presumptive Personal Representative**

This agenda item was not discussed.

### **4. Judicial Retention Election Task Force**

Sen. Bell gave a report on the progress of the Judicial Retention Election Task Force. He stated that one issue is still left for the Task Force to consider at its next meeting concerning 2008 General Session draft legislation "Judicial Performance Evaluation Commission," and the Task Force will have a consensus bill in time for the upcoming general session.

### **5. Transfer-on-Death Deeds for Real Property**

Sen. Romero informed the Committee that there has been a new proposal concerning 2008 General Session draft legislation, "Transfer-on-Death Deeds for Real Property," to look at Colorado's law to better represent the views of real property groups, title insurance groups, and elder and probate code sections from the Utah State Bar.

## **6. Evidentiary Rule Amendment**

Sen. Carlene M. Walker distributed and discussed "Utah Supreme Court Advisory Committee on the Rules of Evidence: Rule 404. Character evidence not admissible to prove conduct; exceptions; other crimes."

## **7. Title 78 Recodification**

Ms. Chelsea-McCarty discussed 2008 General Session draft legislation, "Title 78 Recodification - Title 78B, Chapter 5;" 2008 General Session draft legislation, "Title 78 Recodification - Title 78B, Chapter 6;" "Title 78 Recodification Section Comparison Chart;" and "Outline of Recodification," which were distributed prior to the meeting.

**MOTION:** Rep. Biskupski moved to adopt 2008 General Session draft legislation, "Title 78 Recodification," as a committee bill. The motion passed unanimously with Rep. Allen and Rep. Fowlke absent for the vote.

The Committee returned to agenda item 2(C) Working Group.

**MOTION:** Rep. Fowlke moved to amend 2008 General Session draft legislation, "Parent-Time Amendments," as follows: (1) on line 215 and 242 after "other responsible adult" insert "designated by the non-custodial parent" and delete "if the child is comfortable with that individual," (2) on lines 274 and 306 after "holiday period" delete ", not counting the last day of school," and (3) on line 474 after the word "relocation" insert "as defined in (1) above."

**MOTION:** Rep. Fowlke moved to adopt 2008 General Session draft legislation, "Parent-Time Amendments," as amended as a committee bill. The motion passed unanimously.

## **8. Other Business/Adjourn**

**MOTION:** Rep. Allen moved to adjourn the meeting. The motion passed unanimously.

Chair Aagard adjourned the meeting at 4:03 p.m.