

**MINUTES OF THE
JUDICIARY, LAW ENFORCEMENT, AND CRIMINAL JUSTICE INTERIM COMMITTEE**

Wednesday, May 18, 2011 – 2:00 p.m. – Room 30 House Building

Members Present:

Sen. Mark B. Madsen, Senate Chair
Rep. Kay L. McIff, House Cochair
Rep. Curtis Oda, House Cochair
Sen. Lyle W. Hillyard
Sen. Luz Robles
Sen. Ross I Romero
Sen. Stephen H. Urquhart
Pres. Michael G. Waddoups
Rep. Patrice M. Arent
Rep. Derek E. Brown
Rep. LaVar Christensen
Rep. Fred C. Cox
Rep. Steve Eliason
Rep. Richard A. Greenwood
Rep. Don L. Ipson
Rep. Ken Ivory
Rep. Brian S. King
Rep. Lee B. Perry

Rep. Paul Ray
Rep. Jennifer M. Seelig
Rep. R. Curt Webb
Rep. Mark A. Wheatley

Members Absent:

Sen. Daniel R. Liljenquist
Rep. Christopher N. Herrod

Staff Present:

Mr. Jerry D. Howe, Policy Analyst
Mr. Stewart E. Smith, Policy Analyst
Ms. Susan Creager Allred, Associate General Counsel
Ms. Esther D. Chelsea-McCarty, Associate General Counsel
Ms. Joy L. Miller, 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 McIff called the meeting to order at 2:15 p.m.

MOTION: Rep. Greenwood moved to approve the minutes of the November 17, 2010 meeting. The motion passed unanimously. Sen. Hillyard, Pres. Waddoups, and Rep. Ipson were absent for the vote.

2. Department of Public Safety - Issues and Agency Update

Commissioner D. Lance Davenport, Department of Public Safety (DPS), reported that overall DPS is operating well; however, there are some needs that are becoming more apparent as time goes on. He noted that the State Bureau of Investigation and helicopter program have been strongly affected by funding reductions. He discussed the workload involved with drug interdiction. Commissioner Davenport highlighted the problems the state crime lab is encountering with the need to run tests to identify additional controlled substances, such as spice.

Mr. Jay Henry, Director, DPS Crime Laboratory, said they have a goal of trying to get drug cases out in two weeks. He said that with the new drugs that have been added to the list of controlled substances, it is consuming more and more of the lab's time.

Chair McIff turned the chair over to Sen. Madsen.

3. Sunset Review - Practicing law without a license

Mr. Robert Jeffs, President, Utah State Bar, said the Bar has a committee of volunteer attorneys that reviews all complaints received for unauthorized practice of law. He reviewed the process that is followed and indicated that so far this year they have received 86 complaints. Mr. Jeffs said the statute is working well and is an effective tool in the regulation of the unauthorized practice of law.

Ms. Lori Nelson, State Bar Commissioner, requested that the status quo be maintained and the sunset extended so the statute remains in place.

Sen. Urquhart stated that a driving concern in creating this statute was that legal advice be more readily available to citizens of various economic levels. He said the issue affects basic civil rights and the standing of citizens in society.

Ms. Chelsea-McCarty explained that in the 1990s the statute was repealed and then was put back in place. She indicated that the Supreme Court is tasked by the Utah Constitution with the regulation of the practice of law and those who are admitted to practice law. The Supreme Court does not have authority over those who practice law without a license.

MOTION: Sen. Urquhart moved to reauthorize Utah Code Section 78A-9-103, Practicing law without a license prohibited--Exceptions, for an additional five years. The motion passed with Rep. Brown, Rep. Cox, and Rep. Eliason voting in opposition.

4. Retention Elections for Justice Court Judges

Rep. Oda discussed 2012 General Session draft legislation, "Retention Elections for Justice Court Judges" (2012FL-0007/002), which was distributed to the Committee. He stated that the bill needs to be considered in a special session because the Judicial Performance Evaluation Commission (JPEC) is unable to comply with the current code.

Ms. Joanne Slotnik, Executive Director, JPEC, said the bill allows justice court judges to be evaluated for the 2012, 2014, and 2016 retention elections under two different standards. She explained that most of the requirements of the current statute cannot be applied to part-time justice court judges.

MOTION: Rep. Christensen moved to amend the bill as follows: at end of the bill insert "(d) During an applicable six-year retention period, justice court judges are subject to removal for cause by the original appointing authority or applicable municipality."

Rep. Christensen withdrew his motion after committee discussion indicated there would not be sufficient support to pass the proposed amendment.

MOTION: Rep. Oda moved to adopt 2012 General Session draft legislation, "Retention Elections for Justice Court Judges." The motion passed unanimously. Sen. Robles, Pres. Waddoups, and Rep. Ray were absent for the vote.

5. Department of Corrections - Issues and Agency Update

This item was not discussed and will be presented at the June 15, 2011 meeting.

6. Sunset Review - Foreclosure notice to tenants and unlawful detainer

Ms. Francisca Blanc, Policy Analyst, Utah Housing Coalition, explained that since 2009 the coalition has been doing foreclosure prevention work and advocacy for homeowners. She explained how the statute, which includes some federal law, helps to address many of the problems regarding foreclosures. She noted that the sunset provision of the federal law has been extended to December 31, 2014. She recommended that the state statute also be extended to that date.

MOTION: Rep. Arent moved to reauthorize the statute to December 31, 2014. The motion passed unanimously. Sen. Hillyard, Sen. Robles, Rep. Brown, Rep. Greenwood, and Rep. Ipson were absent for the vote.

7. Administrative Office of the Courts - Issues and Agency Update

Mr. Dan Becker, State Court Administrator, said the courts are downsizing staff in response to the amount of funding appropriated by the Legislature for the coming fiscal year. He discussed the future of the courts in the areas of technology and the use of electronic records. He stated that each year there are about one million cases filed with the courts, which means that the courts are handling hundreds of millions of paper documents.

Mr. Ron Bowmaster, Director, Information Technology Department, discussed time and case management with the program eEverything that will create an electronic court record, eliminate redundant work, allow litigants direct access to their case, and reduce storage requirements in courthouses. He said the court is actively using technology to change the way it conducts its business by focusing on technology and restructuring personnel.

8. Interim Study List - Committee Discussion

Chair Madsen asked the committee members to prioritize items for interim study and to state whether they had any requests to study other items of interest not included on the list.

9. Reducing Recidivism in Utah Prisons

This item was not discussed.

10. Other Business / Adjourn

MOTION: Rep. Perry moved to adjourn. The motion passed unanimously.

Chair Madsen adjourned the meeting at 4:30 p.m.