

**MINUTES OF THE
JUDICIARY, LAW ENFORCEMENT, AND CRIMINAL JUSTICE INTERIM COMMITTEE**
Wednesday, September 21, 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. Luz Robles
Sen. Ross I. Romero
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. Christopher N. Herrod
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. Lyle W. Hillyard
Sen. Daniel R. Liljenquist
Sen. Stephen H. Urquhart

Staff Present:

Mr. Nathan W. Brady, Policy Analyst
Mr. Jerry D. Howe, Policy Analyst
Ms. Susan Creager Allred, Associate General Counsel
Ms. Esther D. Chelsea-McCarty, Associate General Counsel
Ms. Jennifer Christopherson, 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 Madsen called the meeting to order at 2:57 p.m.

MOTION: Rep. Seelig moved to approve the minutes of the July 20, 2011 meeting. The motion passed unanimously. Sen. Romero, Pres. Waddoups, Rep. Ipson, Rep. Ivory, Rep. Perry, and Rep. Webb were absent for the vote.

2. Use of Criminal Surcharges and Fines

Chair Madsen stated that surcharges and fines related to criminal activities were established to help fund drug task forces and that the Commission on Criminal and Juvenile Justice (CCJJ) is required by Utah Code Subsection 51-9-411(10) to report on the amounts and uses of grants allocated from criminal surcharges and fines for funding law enforcement drug operations.

Mr. David Walsh, Deputy Director, CCJJ, distributed "Sample Charges, Fees, Fines, and Surcharge." He explained how the funds were distributed. Mr. Walsh then responded to questions from the Committee.

Mr. Richard Ziebarth, Program Manager, CCJJ, provided additional information on "Sample Charges, Fees, Fines, and Surcharge."

3. Forfeited Property Report

Chair Madsen stated that CCJJ is required by Utah Code Subsection 24-1-19(11) to report each year on the equitable sharing of funds or property reported by Utah law enforcement agencies in federal asset forfeiture cases.

Ms. Doreen Weyland, Contract/Grant Analyst, CCJJ, spoke concerning "2011 Federal Equitable Sharing Report," which was distributed in the mailing packet. Ms. Weyland also explained how the funds received

from July 2010 through June 2011 were distributed. She then responded to questions from the Committee.

4. Amount and Use of Concealed Weapons Fees Collected

Chair Madsen stated that Utah Code Subsection 24-1-19(11) requires the Bureau of Criminal Identification (BCI) to report each year on the amount and use of fees collected for concealed weapons permits.

Ms. Alice Moffat, Chief, BCI, distributed and spoke regarding the "Concealed Firearm Permits Fact Sheet" and stated that total applications for the calendar year 2010 were slightly lower than those received in 2009, but were significantly higher than prior calendar years. Ms. Moffat then responded to questions from the Committee.

Chair Madsen handed over the chair to Rep. McIff.

5. Involuntary Civil Commitment

Rep. Bradley M. Daw discussed 2012 General Session draft legislation, "Civil Commitment Amendments" (2012FL-0006/005), which was distributed in the mailing packet.

Mr. Dallas Earnshaw, Superintendent, Utah State Hospital, voiced concerns regarding whether there would be a possible increase in admissions to the hospital, an increase in length of stay for patients due to the complexities of the treatment for sex offenders, and the fiscal impact it may have on the Department of Human Services and the hospital.

Mr. Adam Trupp, Utah Association of Counties, commented regarding 2012 General Session draft legislation, "Civil Commitment Amendments" (2012FL-0006/005). He stated that their concern is not with what this bill currently says, but with how it might be misused if the system is changed to create a new structure with a correctional focus instead of a treatment focus.

Mr. Ron Gordon, Executive Director, CCJJ, explained 2012 General Session draft legislation, "Civil Commitment Amendments" (2012FL-0006/005), and questioned whether the language on lines 56 and 57 of the bill was too broad.

Mr. Gordon, Mr. Earnshaw, and Mr. Trupp responded to questions from the Committee.

Mr. Paul Boyden, Executive Director, Statewide Association of Prosecutors, stated that the legislation addresses whether a person is committing the offense due to a mental illness.

Mr. Boyden and Mr. Trupp responded to questions and comments from the Committee.

Discussion followed regarding amending the process for civil commitments by modifying the Substance Abuse and Mental Health Act to include harmful sexual conduct by mentally ill persons as grounds for civil commitment.

MOTION: Rep. Ivory moved to amend lines 52-57 as follows; to insert before the language "other sexual conduct likely to" deleting the "ing" after "causing" then deleting lines 54-57. Mr. Boyden and Rep. Daw responded and discussion followed.

SUBSTITUTE MOTION: Rep. McIff moved to amend lines 53-57 to read as follows; "other sexual conduct likely to cause substantial emotional injury or bodily pain" then deleting lines 54-57.

SUBSTITUTE MOTION: Rep. Christensen made a motion to move on to the next agenda item and spoke to the motion. The motion passed unanimously. Sen. Robles, Rep. Eliason, Rep. Greenwood, and Rep. Herrod were absent for the vote.

Rep. McIff relinquished the chair to Sen. Madsen.

6. Sex Offender Registry Review

Rep. Jack R. Draxler explained 2012 General Session draft legislation "Offender Registry Review" (2012FL-0090/006), which was distributed in the mailing packet. He requested a member of the Committee to move an amendment that would include a section of the original bill that was inadvertently omitted from the current draft.

MOTION: Rep. Ipson moved to adopt "Amendment number one in Rep. Draxler's name - September 21, 2011, 1:18 p.m.," made to 2012 General Session draft legislation, "Offender Registry Review" (2012FL-0090/006). The motion passed unanimously. Sen. Robles, Rep. Christiansen, Rep. Eliason, Rep. Greenwood, Rep. Herrod, Rep. Ivory, and Rep. McIff were absent for the vote.

Rep. Draxler explained 2012 General Session draft legislation, "Offender Registry Review" (2012FL-0090/006), which would amend the Sex Offender and Kidnap Offender Registry to allow a person who is required to register as a sex offender to petition the court for removal from the registry after five years if the person was convicted of specified offenses and has met specific requirements.

MOTION: Rep. Ray moved to pass as a committee bill the amended 2012 General Session draft legislation "Offender Registry Review" (2012FL-0090/006), with a favorable recommendation. The motion passed unanimously. Sen. Robles, Rep. Derek Brown, Rep. Eliason, Rep. Greenwood, Rep. Herrod, and Rep. Wheatley were absent for the vote.

7. Kidnap Offender Registry Amendments

Rep. Cox presented 2012 General Session draft legislation, "Kidnapping Offender Amendments" (2012FL-0065/007), which was distributed in the mailing packet. He stated that this legislation would provide a procedure for a person on the Sex Offender and Kidnap Offender Registry to petition the court for removal from the registry for kidnap or unlawful detention offenses if the person meets specified requirements. He responded to questions from the Committee.

MOTION: Rep. King moved to pass 2012 General Session draft legislation, "Kidnapping Offender Amendments" (2012FL-0065/007), with a favorable recommendation. The motion passed unanimously. Sen. Robles, Sen. Romero, Rep. Derek Brown, Rep. Eliason, Rep. Greenwood, Rep. Herrod, and Rep. Ivory were absent for the vote.

The motion was invalid because a quorum was not present. Rep. Cox requested that the draft legislation be placed on the October agenda for action.

8. Sex Offender Registry Chapter

This item was heard in the July meeting and brought back for action. A quorum was not present, therefore, no action was taken.

9. Other Business/Adjourn

MOTION: Rep. Arent moved to adjourn the meeting. The motion passed unanimously. Sen. Robles, Sen. Romero, Rep. Derek Brown, Rep. Eliason, Rep. Greenwood, Rep. Herrod, and Rep. Ivory were absent for the vote.

Chair Madsen adjourned the meeting at 4:59 p.m.