

**MINUTES OF THE  
JUDICIARY INTERIM COMMITTEE**

Wednesday, November 19, 2014 – 9:00 a.m. – Room 450 Capitol Building

**Members Present:**

Sen. Mark B. Madsen, Senate Chair  
Rep. Kay L. McIff, House Chair  
Sen. Stephen H. Urquhart  
Rep. Patrice M. Arent  
Rep. LaVar Christensen  
Rep. Brian M. Greene  
Rep. Craig Hall  
Rep. Brian S. King  
Rep. Lee B. Perry  
Rep. Jeremy A. Peterson  
Rep. V. Lowry Snow

**Members Absent:**

Sen. Lyle W. Hillyard  
Sen. Luz Escamilla

**Staff Present:**

Mr. Gregg Girvan, Policy Analyst  
Ms. Esther Chelsea-McCarty, Associate General Counsel  
Ms. Kristen C. Ricks, 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 Madsen called the meeting to order at 9:16 a.m.

**MOTION:** Rep. Perry moved to approve the minutes of the October 15, 2014, meeting. The motion passed unanimously with Sen. Urquhart, Rep. Arent, Rep. Christensen, and Rep. Snow absent for the vote.

**2. Actions and Venue Amendments**

Rep. McIff distributed and discussed draft legislation "Personal Injury Damages Amendments" (2015FL-0638/002). He said that the bill seeks to clarify a monetary general damages cap in situations where an injured person suffers an unrelated death prior to judgment or settlement. He said he is not aware of any opposition on either side to this amendment. He noted it is a technical adjustment.

**MOTION:** Rep. McIff moved to recommend draft legislation "Personal Injury Damages Amendments" as a committee bill. The motion passed unanimously with Sen. Urquhart, Rep. Arent, and Rep. Christensen absent for the vote.

**3. Judicial Discretion in Sentencing Discussion**

The committee did not discuss this agenda item.

**4. Parent-Time Schedule Amendments**

Rep. Snow introduced draft legislation "Parent-Time Schedule Amendments" (2015FL-0558/002) and said the bill would create an optional parent-time schedule that could result in joint physical custody of a child. He said that this bill was run in the 2013 General Session but because of a few concerns, it was not brought to the House for a vote that year.

Ms. Lori Fowlke, member, Family Law Executive Committee, Utah State Bar, said that divorced parents must submit a parenting plan if they wish to file for joint custody. She explained that draft legislation

"Parent-Time Schedule Amendments" would provide an optional schedule that parents could propose to the courts for more than the minimum visitation but less than a fifty-fifty timeshare. She said the bill would clarify factors that a noncustodial parent must show and the court must consider in order to be considered for this plan. Ms. Fowlke informed the committee that the bill would also allow for school-to-school transfers. She explained that the bill would seek to give more time to the noncustodial parent without affecting the stability of the child. If a parent wants more time than the minimum statute currently allows but doesn't have money for legal fees, this would be a viable less expensive option, she said. She responded to questions from the committee.

Mr. Stewart Ralphs, Director, Legal Aid Society, said that draft legislation "Parent-Time Schedule Amendments" would be a valuable tool because it would be a way for parents to mediate an agreement at the outset of a divorce outside of litigation. He said that the monetary and emotional cost of divorce is high and this bill would provide parties another option as they entered mediation. He believes that a lot of people would gravitate to this option.

Rep. Arent thanked Rep. Snow and Ms. Fowlke for their work on this bill. She said this is an approach she feels comfortable with and she supports resolving these matters outside of court.

Ms. Julie Anderson, mother, shared her personal experience with child custody and said she supports this bill. She counseled that both parents need the opportunity to be a part of their child's life. She noted her support of making custody modifications less about money and more about children and offered her support to Rep. Snow.

Mr. Robert Jordan, father, shared his experience with custody modifications and said he supports this bill. He talked about benefits and drawbacks that come by deviating from the minimum parent-time schedule. He noted that using mediation as a model is a great goal. He said the option proposed by draft legislation "Parent-Time Schedule Amendments" would be a great tool for parents who are seeking to reach a settlement. He indicated his support of school-to-school transfers and said it would help both parents to be involved at the school level. He expressed his support of any legislation that would encourage the involvement of the noncustodial parent in the day-to-day operations of the child's life.

## **5. Utah Expungement Act Amendments**

Rep. Greene recapped committee discussions regarding Utah's expungement code. He said when discussing how to draft legislation, he looked at the prevailing public policy behind expungements and incorporated that into draft legislation "Expungement Act Amendments" (2015FL-0210/004). He listed changes the bill would make to Utah Code Title 77, Chapter 40, Utah Expungement Act, and pointed out that there is no general expungement process at the federal level. He said the intent of this legislation is to break the cycle of criminal recidivism, increase public safety, assist the population of offenders reentering the community, and restore certain civil liberties to offenders. He noted that this bill would clarify procedures for an administrative record to be redacted when a person's criminal record has been expunged. He said he wanted to make it clear that the process of redacting would include removing personal identifying information, leaving the rest of the record intact; personal identifying information would no longer be published on agencies' websites. He responded to questions from the committee.

Mr. Richard Mauro, attorney, shared his personal experience representing people seeking an expungement. He said he is in favor of this bill because it would limit the influence administrative agencies have on an offender's ability to find a job and move forward in life. He noted the importance of expunging records after an individual has paid their debt to society.

Ms. Charri Brummer, Deputy Director, Utah Division of Child and Family Services, said that Rep. Hutchings recently toured their facility to learn about its safe database and thought it was a strong system. She said the division has reviews in place that would be changed internally if required by draft legislation "Expungement Act Amendments." She pointed out her concern that if this bill passed, the agency would be required to expunge or redact portions of records dealing with serious sexual or violent crimes. She responded to questions from the committee.

**MOTION:** Rep. Peterson moved that the committee favorably recommend draft legislation "Expungement Act Amendments" unamended, and that it go before the House standing committee. The motion passed with Rep. Arent voting in opposition. Rep. King and Rep. Snow were absent for the vote.

## **6. Domestic Asset Protection Trusts**

Rep. Earl D. Tanner presented "Proposed Amendments to Utah Domestic Asset Protection Trust Law" to the committee and talked about his concerns with Utah's current Domestic Asset Protection Trust (DAPT) laws. He offered suggestions for revising the statute.

## **7. Electronic Warrants**

Mr. Chad Platt, member, Statewide Association of Public Attorneys of Utah, provided a background of eWarrants in Utah, why they were created, and how they work. He said the eWarrants system is an Internet-based system for police officers to create warrants. Mr. Platt demonstrated how an eWarrant is generated online and the review process it undergoes afterward. He said eWarrants have been beneficial for numerous reasons, particularly because they save time, which allows for the collection of more accurate evidence. He responded to questions from the committee.

## **8. Utah Commission on Criminal and Juvenile Justice Policy Study**

Mr. Ron Gordon, Executive Director, Utah Commission on Criminal and Juvenile Justice, distributed and discussed "Justice Reinvestment Report" and "Justice Reinvestment Report Summary." He indicated that the final report is a product of the single most methodical process he has overseen during his career. He said the commission completed a deep review of data provided by the Pew Charitable Trusts and that many suggested policies were not adopted. He noted that the Pew Charitable Trusts provided thousands of hours of data analysis. He said there are a lot of recommendations that would change practices and policies at the Department of Corrections and the department is in support of the report.

Mr. Gordon reviewed the categories of recommendations:

- Focus prison beds on serious and violent offenders.
- Strengthen probation and parole supervision.
- Improve and expanding reentry and treatment services.
- Support local corrections systems.
- Ensure oversight and accountability.

He noted that a lot of the data used in the report came from the Department of Corrections. He said the recommendations are intended to make sure jail is used as efficiently as possible. He responded to questions from the committee.

Rep. Christensen expressed his thanks to the commission. He said that the question now is what they can do with this data. He requested that a separate drug court study be done.

Mr. Len Engel, Managing Associate, Pew Charitable Trusts, said Pew looked at Utah County data, and its jail growth trends were similar to those in other counties. He responded to questions from the committee.

Mr. Paul Boyden, Executive Director, Statewide Association of Prosecutors, said the association has been a part of this process and shares the same goals outlined in the report. He noted that the recommendations will require a tremendous additional investment. He talked about concerns the association has with some of the recommendations and said it is important to keep certain tools in place as incentives for high-risk individuals to go through the system and receive treatment. He summarized that overall the association is supportive of the report and will put forth its best effort to ensure it succeeds.

## **9. Other Items/Adjourn**

The committee distributed "Child Welfare Legislative Oversight Panel 2014 Annual Report" and encouraged members to review the information.

**MOTION:** Rep. Perry moved to adjourn the meeting. The motion passed unanimously with Sen. Urquhart and Rep. Greene absent for the vote.

Chair Madsen adjourned the meeting at 12:20 p.m.