

**MINUTES OF THE
JUDICIARY INTERIM COMMITTEE**

Wednesday, June 17, 2015 – 2:30 p.m. – Room 25 House Building

Members Present:

Sen. Mark B. Madsen, Senate Chair
Rep. LaVar Christensen, House Chair
Sen. Luz Escamilla
Sen. Lyle W. Hillyard
Rep. Fred C. Cox
Rep. Bruce R. Cutler
Rep. Brian M. Greene
Rep. Craig Hall
Rep. Brian S. King
Rep. Merrill F. Nelson
Rep. Dixon M. Pitcher
Rep. V. Lowry Snow

Rep. Keven J. Stratton
Rep. Mark A. Wheatley

Members Absent:

Sen. Ralph Okerlund
Sen. Steve Urquhart
Rep. Norman K. Thurston

Staff Present:

Mr. Gregg Girvan, Policy Analyst
Ms. Esther Chelsea-McCarty, Associate General Counsel
Ms. Lucy W. Daynes, 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 Christensen called the meeting to order at 2:55 p.m.

MOTION: Rep. Cutler moved to approve the minutes of the May 20, 2015, meeting. The motion passed unanimously.

2. Expungement Legislation

Rep. Christensen stated that the topic of administrative expungements has been assigned as a study item to the Business and Labor Interim Committee by the Legislative Management Committee.

Rep. Greene introduced two pieces of draft legislation, "Expungement Amendments" (2016FL-0190/03) and "Administrative Expungement Amendments" (2016FL-0005/003). He explained that draft legislation "Expungement Amendments" changes the definitions of "expungement" and "seal". He stated that some federal agencies were not recognizing the expungement of state records because, under the current "expungement" definition, the records were still available to some agencies.

Mr. Mitch Vilos, attorney, Utah, said that he has focused his law practice on firearm law and expungements. He explained that the current expungement statute allows for situations in which individuals who have had an expungement under state law may not have the expungement recognized by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives. In these situations, he said, a person may be allowed to buy a firearm under state law, but if this comes to the attention of a federal agent then they may be considered in violation of federal law. He further explained that one of the reasons why Bureau of Alcohol, Tobacco, Firearms and Explosives doesn't recognize the expungements is because the expunged records may be available to agencies for access at a later date. He said that changing the state definition of "expungement" may solve this problem. Mr. Vilos answered questions from the committee.

Rep. Greene answered questions from the committee and discussed specific provisions of draft legislation "Expungement Amendments." The committee discussed the issue.

Sen. Madsen said that the committee will wait to consider the topic of administrative expungements pending approval of the Legislative Management Committee.

3. Statutory Reports Overview

Mr. Girvan presented on statutory reports given to the committee for consideration each year. He said that the committee has been asked to examine the statutory reports it receives and consider legislation to keep, modify, or eliminate certain reports. He used a presentation, "Statutory Reports," to introduce considerations and questions for the committee to use in evaluating each report.

MOTION: Sen. Hillyard moved to evaluate the statutory reports as follows: (1) committee staff will post each report on the committee webpage, (2) each committee member will read the reports and determine which they believe should be modified or eliminated, (3) committee members will submit their recommendations for the chairs, and (4) the chairs will determine which statutory reports will be delivered orally to the committee. The committee discussed the motion. Sen. Hillyard withdrew the motion.

Chair Christensen cautioned the committee to consider the important role statutory reports play in the legislative process and the Legislature's role in oversight of state agencies.

Sen. Madsen asked that the committee take review of statutory reports seriously and emphasized that oversight is one of the most important functions of the Legislature.

4. Family Law

Ms. Chelsea-McCarty presented and distributed "Alimony Presentation," which outlined the role of alimony in divorce, types of alimony, the purpose of alimony, and Utah law relating to the determination of alimony. She said that the main issues with alimony are determination, fault, and reduction/modification/termination. Ms. Chelsea-McCarty answered questions from the committee.

The committee discussed the issue.

Sen. Madsen asked committee staff to compile information on the differences in alimony awarded between judges.

Mr. Dan Deuel, National Parents Organization of Utah, said that the biggest problem in assessing alimony is the common practice of no-fault divorce. He said that he thinks limited-term alimony of 5 or 6 years is the most just solution.

Ms. Dani Hartvigsen, attorney, explained that child support and alimony are related and both use imputed income. She said that the only data available on alimony awards is from the appellate court, where the average stay-at-home spouse is awarded 1/3 of family income in child support and alimony. She said that this increases the poverty levels for women and children after divorce.

Ms. Amanda Davis, former stay-at-home mom, said that women should not rely on alimony. She said that in her divorce she requested a low alimony and that she then went back to school and started a career. She discussed the effects of divorce on children. Ms. Davis answered questions from the committee.

The committee discussed the issue.

Rep. Christensen said that the committee will address parents' rights and children's rights in the next meeting.

5. Other Items / Adjourn

MOTION: Sen. Madsen moved to adjourn the meeting. The motion passed unanimously with Sen. Escamilla, Sen. Hillyard, Rep. Hall, Rep. Nelson, and Rep. Wheatley absent for the vote.

Chair Madsen adjourned the meeting at 5:13 p.m.