MINUTES OF THE SENATE JUDICIARY, LAW ENFORCEMENT, AND CRIMINAL JUSTICE STANDING COMMITTEE

Wednesday, February 1, 2017 • 2:00 p.m. • 250 State Capitol

Members Absent:

Sen. Ralph Okerlund

President Wayne L. Niederhauser

Members Present:

Sen. Gene Davis

Sen. Todd Weiler, Chair

Sen. Luz E		Staff Present:	
Sen. Lyle W. Hillyard		Mr. Gregg A. Girvan, Policy Analyst	
Sen. Danie	l W. Thatcher	Ms. Nancy Skidmore, Committ	te Secretary
Note: A list of o	thers present, a copy of related materials, and ar	n audio recording of the meeting can be four	nd at le.utah.gov.
Chair Weiler	r called the meeting to order at 2:05	p.m.	
MOTION:	Sen. Hillyard moved to approve t motion passed 4-0-3.	the minutes of the January 30, 20	17 meeting. The
Yeas:	Nays:	Abs:	
Sen. Davis		Pres. Niederha	user
Sen. Escam		Sen. Okerlund	
Sen. Hillya		Sen. Thatcher	
Sen. Weiler	Γ		
1. S.B. 121	Adoption Act Amendments (Hilly	ard, L.)	
MOTION:	Sen. Davis moved to amend S.B.	121 with Amendment #2 as follo	ows:
1. Pag	ge 8, Lines 216 through 218: 216	Section 78B-6-131.	
217 ((6) (a) { $-A$ [person] profession		described in Subsection
` ' ' '	nall be licensed to under the laws of:		
216 practice	under the laws of.		
The mot	tion passed with a vote of 4-0-3.		
Yeas:	Nays:	Abs:	

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Sen. Davis

Sen. Escamilla

Sen. Hillyard

Sen. Weiler

Pres. Niederhauser

Sen. Okerlund

Sen. Thatcher

Sen. Hillyard explained the bill.

MOTION: Sen. Hillyard moved to pass S.B. 121 out favorably. The motion passed with a vote of 4-0-3.

Yeas: Nays: Abs:

Sen. Davis Pres. Niederhauser

Sen. Escamilla
Sen. Hillyard
Sen. Hillyard
Sen. Thatcher

Sen. Weiler

MOTION: Sen. Hillyard moved to place S.B. 121 on the Consent Calendar. The motion passed with a vote of 4-0-3.

Yeas: Nays: Abs:

Sen. Davis

Sen. Escamilla

Sen. Hillyard

Pres. Niederhauser

Sen. Okerlund

Sen. Thatcher

Sen. Weiler

2. S.B. 89 Adoption Agency Amendments (Escamilla (Robles), L.)

MOTION: Sen. Davis moved to replace S.B. 89 with 1st Substitute S.B. 89. The motion passed with a vote of 4-0-3.

Yeas: Nays: Abs:

Sen. Davis
Sen. Escamilla
Sen. Hillyard
Pres. Niederhauser
Sen. Okerlund
Sen. Hillyard
Sen. Thatcher

Sen. Weiler

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Sen. Escamilla presented the bill with the assistance of Mr. Ray Johnson, adoptive father.

MOTION: Sen. Davis moved to amend 1st Substitute S.B. 89 with Amendment #1 as follows:

1. Page 21, Line 633:

633 (vi) gross negligence associated with care of the child, as described in Subsection 78B-6-134(3);

The motion passed with a vote of 3-0-4.

Yeas: Nays: Abs:

Sen. Davis
Sen. Escamilla
Sen. Escamilla
Sen. Weiler
Sen. Weiler
Sen. Okerlund
Sen. Thatcher

MOTION: Sen. Davis moved to pass 1st Substitute S.B. 89 out favorably. The motion passed with a vote of 3-0-4.

Yeas: Nays: Abs:

Sen. Davis
Sen. Escamilla
Sen. Escamilla
Sen. Weiler
Sen. Weiler
Sen. Okerlund
Sen. Thatcher

Sen. Thatcher assumed the chair.

3. S.B. 134 Indigent Defense Commission Amendments (Weiler, T.)

MOTION: Sen. Weiler moved to amend S.B. 134 with Amendment #1 as follows:

- 1. *Page 4, Lines 91 through 92:*
 - 91 (5) A person who is currently employed solely as a criminal prosecuting attorney may not
 - 92 serve as a member of the commission.

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2. Pag	ge 5, Lines 131 through 136:			
131	(a) one individual who is an active member of the Utah State Bar to serve as a			
	<u>full-time</u>			
<u>132</u>	assistant director; and			
133	(b) one individual with data collection and analysis skills to carry out duties as			
	outlined			
<u>134</u>	in Subsection 77-32-804(1)(a) { ; and	<u></u>		
135	{ (c) any additional professional and clerical staff necessary to enable the			
	commission to			
<u>136</u>	<u>earry out its responsibilities.</u>			
3. Pag	ra 6 Liver 157 through 1. 61			
3. Fug 157	age 6, Lines 157 through 1: 61			
157 158	$[v]$ Counsel shall be free to provide meaningful $\{$, adversarial testing of the			
159	evidence representation , including:			
160	(A) adequate access to defense resources; and(B) workloads that allow for time to meet with clients, investigate cases, and file			
161	appropriate motions.			
101	appropriate motions.			
4. Pag	ge 11, Lines 334 through 336:			
334	(2) (a) For purposes of this part, "baseline budge	et" means an indigent [criminal]		
335	defense system's { share of local funding, adjusted annually for growth in			
	population and			
336	inflation. } annual expenditure for indigent defense services. The baseline			
budget shall be adjusted for indigent defense case load fluctuations and inflation				
	whenever subsequent grant requests are submitte	d to the commission.		
The mo	tion passed with a vote of 3-0-4.			
1110 1110	tion passed with a vote of 5 o 1.			
Yeas:	Nays:	Abs:		
Sen. Es	scamilla	Sen. Davis		
Sen. Thatcher		Sen. Hillyard		
Sen. Weiler		Pres. Niederhauser		

Sen. Okerlund

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Sen. Todd Weiler presented the bill with the assistance of Joanna Landau, Director, Indigent Defense Commission.

Mr. Jared Eldridge, Juab County Attorney, spoke in favor of the bill.

Mr. Rick Schwermer, Assistant Administrator, Utah State Office of the Courts, spoke in favor of the bill.

MOTION: Chair Weiler moved to pass S.B. 134 out favorably. The motion passed with a vote of 4-0-3.

Yeas:	Nays:	Abs:
Sen. Escamilla		Sen. Davis
Sen. Hillyard		Pres. Niederhauser
Sen. Thatcher		Sen. Okerlund
Sen. Weiler		

4. S.J.R. 7 Joint Resolution Amending Rules of Criminal Procedure (Weiler, T.)

Sen. Todd Weiler explained the bill.

Vacar

MOTION: Chair Weiler moved to replace S.J.R. 7 with 1st Substitute S.J.R. 7. The motion passed with a vote of 4-0-3.

A lage

<u>Yeas:</u>	<u>Nays:</u>	ADS:
Sen. Escamilla		Sen. Davis
Sen. Hillyard		Pres. Niederhauser
Sen. Thatcher		Sen. Okerlund
Sen Weiler		

Mr. Steve Burton, Committee Chair, Utah Association of Criminal Defense Attorneys, spoke in favor of the bill.

Mr. Sean Hollinger, Criminal Defense Attorney, spoke in favor of the bill.

Marra

Mr. Paul Boyden, Executive Driector, Statewide Association of Presecutors, spoke in opposition to the bill.

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Mr. Rick Schwermer, Assistant Administrator, Utah State Office of the Courts, spoke in opposition to the bill.

MOTION: Chair Weiler moved to amend 1st Substitute S.J.R. 7 with Amendment #1 as follows:

- 1. Page 4, Lines 91 through 97:
 - 91 (i) (3) In addition to the penalties under Subsection (h), a court may impose the
 - 92 following sanctions for a knowing and willful violation of Subsection (b):
 - 93 (i) (3) (A) a public reprimand of the prosecutor;
 - (i) (3) (B) money damages to be paid by the prosecutor, and not the office for which
 - 95 the prosecutor works; or
 - 96 (i) (3) (C) jail time under an order of contempt of court { ; dr
 - 97 { (i) (3) (D) being tried for a class B misdemeanor.

The motion passed with a vote of 3-0-4.

Yeas: Nays: Abs:

Sen. Hillyard
Sen. Davis
Sen. Thatcher
Sen. Escamilla
Sen. Weiler
Pres. Niederhauser
Sen. Okerlund

MOTION: Chair Weiler moved to pass 1st Substitute S.J.R. 7 out favorably. The motion passed with a vote of 2-1-4.

Yeas: Nays: Abs:

Sen. Thatcher Sen. Hillyard Sen. Davis
Sen. Weiler Sen. Escamilla
Pres. Niederhauser

Sen. Okerlund

Chair Weiler resumed the chair.

5. S.B. 118 Criminal Law Amendments (Thatcher, D.)

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Sen. Todd Weiler presented the bill with the assistance of Mr. Brian Redd, Director, Bureau of Investigation, Department of Public Safety.

MOTION: Sen. Hillyard moved to pass S.B. 118 out favorably. The motion passed with a vote of 4-0-3.

Yeas:	Nays:	Abs:	
Sen. Escam Sen. Hillyar Sen. Thatch Sen. Weiler	rd er	Sen. Davis Pres. Niederhauser Sen. Okerlund	
MOTION:	Sen. Hillyard moved to adjourn. The	e motion passed with a vote of 4-0-3.	
Yeas:	Nays:	Abs:	
Sen. Escamilla Sen. Hillyard Sen. Thatcher Sen. Weiler		Sen. Davis Pres. Niederhauser Sen. Okerlund	
Chair Weiler adjourned the meeting at 3:49 p.m.			
Sen. Todd W	eiler, Chair		