

**MINUTES OF THE
JUDICIARY INTERIM COMMITTEE**

Wednesday, May 17, 2000 - 9:00 a.m. - Room 403 State Capitol

Members Present:

Rep. A. Lamont Tyler, House Chair
Sen. Lyle W. Hillyard
Sen. David H. Steele
Sen. Pete Suazo
Rep. Patrice M. Arent
Rep. Chad E. Bennion
Rep. Afton B. Bradshaw
Rep. Katherine M. Bryson
Rep. Gary F. Cox
Rep. Greg J. Curtis
Rep. David L. Gladwell
Rep. Neal B. Hendrickson
Rep. J. W. "Bill" Hickman
Rep. LaWanna "Lou" Shurtliff
Rep. John E. Swallow
Rep. David Ure
Rep. Glenn L. Way

Members Absent:

Sen. Terry Spencer, Senate Chair
Rep. Martin R. Stephens

Members Excused:

Staff Present:

Mr. Jerry D. Howe,
Research Analyst
Ms. Esther Chelsea-McCarty,
Associate General Counsel
Ms. Glenda S. Whitney,
Legislative Secretary

Note: A list of others present and a copy of materials distributed in the meeting are on file in the Office of Legislative Research and General Counsel.

1. Call to Order and Committee Business - Chair Tyler called the meeting to order at 9:10 a.m.

MOTION: Rep. Arent moved to approve the minutes of the April 19, 2000 meeting. The motion passed unanimously, with Rep. Bennion, Rep. Hendrickson, Rep. Hickman, Rep. Swallow, and Rep. Ure absent for the vote.

2. McPolin Elementary, 5th Grade PATHS program, Park City, UT., - Rep. Raymond W. Short, introduced Ms. Barbara Lewis, 5th grade teacher and nine students from McPolin Elementary. The students, who conducted an anti violence survey, reported that students who had demonstrated violent behavior in school had recently been exposed to violent movies, video games, or television programs or cartoons. The survey also noted programming containing violence are readily available to young people. Students that presented the report were: Sierra Quitiquit, Patrick Kruse, Curtis Wallen, Christian Schlegel, Ryan Geer, Nicole Rosecrans, Andrew McKay, Jordan Taylor, and Andrew Werling.

Rep. Tyler turned the chair to Rep. Gladwell.

3. Illegal Drug Cleanup - Rep. Tyler introduced Captain Kevin Youngberg, Criminal Investigations, Department of Public Safety, and Mr. Gary Heward, Attorney Generals Office. Rep. Tyler briefed the committee on draft legislation, "Standards for Illegal Drug Lab Decontamination, 2000FL-0026/001." He explained that in the 2000 General Session, similar legislation passed in the House but was not heard in the Senate. He pointed out that funding cleanup of these sites has been problematic. Rep. Tyler emphasized that some standard needed to be developed for cleanup procedures so when these sites are either sold or inhabited, the new residents or owners have some assurance that the site is clean.

Captain Youngberg reported that the Department of Public Safety cleans approximately 300 contaminated labs sites per year. He emphasized that without a standard for decontamination cleanup, some sites may appear clean, but still represent a danger to future occupants. Mr. Heward said this problem effects all Utahns because anyone could move into a contaminated former methamphetamine lab site.

Rep. Tyler said that possible funding for cleanup and decontamination could come from a federal grant, a tax increase, or from the general fund.

Sen. Suazo indicated that it has been reported that Utah is a leader in methamphetamine use in the nation and questioned why. Captain Youngberg responded that because the drug is readily accessible, it has a longer effect, and is less expensive than other drugs.

Rep. Curtis questioned what the cleanup cost would be per site. Rep. Tyler responded approximately \$50.00 per square foot for cleanup. Reps. Swallow and Hickman acknowledged a serious problem with contaminated drug lab sites, but expressed serious concern regarding the expense property owners would incur should tenants, without knowledge of the owner, use the property as a drug lab.

Rep. Curtis declared a conflict because of an interest in rental properties, and strongly disagreed with legislation requiring property owners to pay certified contractors' high fees for cleanup.

Rep. Cox voiced support for cleanup and cleanup standards. He said without drug cleanup, innocent children are being put at risk when they play in the yards and homes of these contaminated sites.

After committee discussion, Rep. Tyler thanked the committee for their input and said he would incorporate the committee's recommendations into another draft of the bill.

4. Recovery Special Damages - Rep. A. Lamont Tyler referred the committee to the mailing packet and reviewed H.B. 354, Recovery of Special Damages for Injuries. He presented an overview of the bill and answered questions from the committee.

Mr. Douglas G. Mortensen, distributed handouts, "Technical Changes to Survival Statute, UCA § 78-11-12," along with, "Affidavit of Jared R. Faerber as to Legislative Intent Behind Utah's Survival Statute Language at Issue." He reviewed the proposed changes and indicated that the amendment seeks to bring the language of the statute into conformity with its legislative intent.

MOTION: Rep. Arent moved to adopt "Recovery of Special Damages for Injuries," H.B. 354, 2000 General Session, as a Judiciary Interim Committee bill. The motion passed unanimously, with Sen. Steele, Rep. Gladwell, Rep. Hickman, and Rep. Way absent for the vote.

5. Small Claims Court Jurisdiction - Rep. Greg J. Curtis briefed the committee on problems relating with small claims court jurisdiction. He introduced Ms. Barbara L. Maw, attorney, who further explained the need for additional instruction when dealing with small claims jurisdiction.

Ms. Maw explained to the committee that the problem currently facing small claims court deals with the \$5,000 limit for personal injury, and the constitutional right of trial by jury. She said that currently small claims court rules do not provide for trial by jury in personal injury cases of less than \$5,000. The conflict is that in any personal injury case the plaintiff should have the right of trial by jury regardless of the amount.

Mr. Mitchell Jensen, attorney, proposed to the committee that there should be an alternative to small claims court for some personal injury cases. That alternative being a non binding arbitration before being referred to the district court. In the non binding arbitration, either party would have the right to appeal the decision of the arbitrator. He said Nevada has had a similar alternative in place for a year with favorable results.

Sen. Hillyard said that small claims court really is an arbitration process because evidence is limited and then a decision is made by the judge.

Rep. Curtis indicated that he would consider the issues that have been discussed, work with interested parties, and bring a draft for discussion at a future meeting.

6. Adjourn -

MOTION: Rep. Arent moved to adjourn the meeting at 11:38 a.m. The motion passed unanimously, with Sen. Steele, Rep. Gladwell, Rep. Hickman, and Rep. Way absent for the vote.

