

**MINUTES OF THE
JUDICIARY INTERIM COMMITTEE**

Wednesday, November 15, 2000 - 9:00 a.m. - Room 403 State Capitol

Members Present:

Sen. Terry Spencer, Senate Chair
Rep. A. Lamont Tyler, House Chair
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. Neal B. Hendrickson
Rep. LaWanna "Lou" Shurtliff

Members Absent:

Sen. Lyle W. Hillyard
Rep. Greg J. Curtis
Rep. David L. Gladwell
Rep. J. W. "Bill" Hickman
Rep. Martin R. Stephens
Rep. John E. Swallow
Rep. David Ure
Rep. Glenn L. Way

Staff Present:

Mr. Jerry D. Howe,
Research Analyst
Ms. Esther D. 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 Spencer called the meeting to order at 9:17 a.m.

MOTION: Rep. Bradshaw moved to approve the minutes of the October 18, 2000 meeting. The motion passed unanimously, with Rep. Bennion, Rep. Bryson and Rep. Shurtliff absent for the vote.

2. Sexual Victims and Offenders Report - Sen. Steven Poulton distributed a handout, "Early Intervention in Sexual Offenses." Sen. Poulton said that some victims of sexual abuse are placed in a difficult dilemma: report the abuse and risk the loss of economic stability, or allow the abuse to continue and maintain economic stability. Unfortunately, he said, some victims choose to allow the abuse to continue rather than risk economic instability.

Mr. Haven Barlow spoke in support of the sex offender program described in the "Early Intervention in Sexual Offenses" handout. He said that sex offenders need professional counseling more than prison. Sex Offenders can receive this counseling while still providing for the family, he said.

Mr. Edward Gardiner and Mr. Bill Gardiner, Psychologists, Regional Treatment Center, answered questions of the committee and explained the process for effective treatment. Mr. Edward Gardiner indicated that non-violent, non-predatory sex offenders who recognize that they

have a sexual dysfunction and are seeking treatment will likely overcome the dysfunction with proper counseling.

Ms. Jayne Patience, Assistant Director, Chelsea Street, said that Chelsea Street is a self-pay, self-sufficiency program which accepts clients from a large cross section of society with a great deal of success.

Sen. Poulton asked the committee to review the program detailed in the handout. Sen. Spencer suggested that Sen. Poulton meet with interested parties before a bill is drafted.

Ms. Delpha Baird, Utah Boys Ranch, explained that she has worked on this issue extensively and she reiterated that it is a very difficult and serious problem. The only real hope for the youth offender, she said, is that they receive proper treatment before they become adult offenders.

Rep. Trisha Beck noted that if Sen. Poulton desires further input on this idea, he is invited to attend a meeting on Monday, November 20, 2000 at 3:00 p.m., room 403.

3. Crime Victims Restitution - Rep. Sheryl Allen and Mr. Kirk Torgensen, Director, Adult Probation and Parole, Department of Corrections, distributed and reviewed draft legislation, "Criminal Restitution Amendments," 2001FL-0218/004. She said the bill defines terms and sets out procedures for collecting restitution from persons convicted of a crime and ordered by a court to pay restitution to their victims.

Rep. Allen said that this version of the bill has been amended since it was last discussed at the October 18, 2000 meeting. She explained that the advantage of the bill is that it clearly outlines the duties of prosecutors and the courts and establishes a priority for restitution.

After discussion, the committee made the following motions:

MOTION: Sen. Steele moved on page 13, line 383 after the word which, to insert "there is a substantial likelihood that." The motion passed unanimously, with Rep. Bennion and Rep. Bryson absent for the vote.

MOTION: Rep. Tyler moved on page 13, line 389 after the word substantial, delete "probability" and insert "likelihood." The motion passed unanimously, with Rep. Bennion and Rep. Bryson absent for the vote.

MOTION: Sen. Steele moved on page 13, line 394 after the word order, insert the word "substantially." The motion failed, with Sen. Spencer voting in favor and all others present voting in opposition. Rep. Bennion and Rep. Bryson were absent for the vote.

MOTION: Rep. Bradshaw moved on page 13, line 401 to delete “probable cause” and insert “a substantial likelihood.” The motion passed, with Rep. Cox voting in opposition. Rep. Tyler was absent for the vote.

Rep. Bennion indicated that he was concerned that the state not create another victim in the process. He said the prosecutor should be careful to insure that this does not happen. Rep. Allen noted that she would address Rep. Bennion’s concern.

MOTION: Rep. Bradshaw moved to accept legislation, “Criminal Restitution Amendments,” with the proposed amendments, as a committee bill. The motion passed unanimously, with Rep Tyler absent for the vote.

4. Decriminalization of Traffic Offenses Task Force Report - Rep. Bryan D. Holladay distributed a report, “Decriminalization of Traffic Offenses Task Force Report” which he reviewed.

Mr. Richard Schwermer, Administrative Office of the Courts, representing the Utah Judicial Council, said that the Judicial Council does not have any concerns with the decriminalization issues and suggested allowing the current statute to proceed as drafted. The Board of Justice Court Judges, have raised some issues about changing class C misdemeanors to infractions because, among other things, it sends a poor message to the public and raises administration issues.

The Chair thanked Rep. Holladay for the report and Mr. Schwermer for his comments.

5. Other Business - Mr. Jerry Howe, Research Analyst, explained that the statutorily required reports have been submitted to the Judiciary Interim Committee for review in writing and he encouraged the committee to provide input as they deemed appropriate.

Other information distributed at the meeting, “Crime, Punishment, and Rehabilitation Revisited: A Study of the Utah Department of Corrections,” League of Women Voters of Utah.

6. Adjourn -

MOTION: Rep. Shurtliff moved to adjourn the meeting at 10:52 a.m. The motion passed unanimously, with Rep. Tyler and Rep. Bradshaw absent for the vote.

