

**MINUTES OF THE  
HOUSE JUDICIARY STANDING COMMITTEE MEETING  
Room W010 - State Capitol Complex  
February 14, 2006**

**MEMBERS PRESENT:** Rep. James A. Ferrin, Chair  
Rep. Erik K. Hutchings, Vice Chair  
Rep. Douglas C. Aagard  
Rep. Ben C. Ferry  
Rep. Lorie D. Fowlke  
Rep. Ann W. Hardy  
Rep. Neal B. Hendrickson  
Rep. David L. Hogue  
Rep. Susan Lawrence  
Rep. Rosalind J. McGee  
Rep. Ross Romero  
Rep. Scott L. Wyatt

**STAFF ABSENT:** Rep. Glenn A. Donnelson

**STAFF PRESENT:** Jerry D. Howe, Policy Analyst  
Sylvia Newton, Committee Secretary

**NOTE:** A list of visitors and a copy of handouts are filed with the committee minutes.

Representative Ferrin called the meeting to order at 8:06 a.m.

**MOTION:** Rep. Hardy moved to approve the minutes of the February 10, 2006 meeting. The motion passed unanimously with Rep. Aagard, Rep. Ferry, Rep. Fowlke, Rep. Hendrickson, Rep. McGee, and Rep. Hutchings absent for the vote.

**H.B. 413 Comparative Negligence Amendments (*Rep. S. Wyatt*)**

Rep. Wyatt explained H.B. 413.

Spoke in opposition to the bill: Ed Havas, Utah Trial Lawyers Association  
Ruth Lybbert, Utah Trial Lawyers Association

Spoke in favor of the bill: Tom Bingham, Utah Manufacturers Association

Rep. Ferrin relinquished the chair to Rep. Hutchings.

**MOTION:** Rep. Fowlke moved to amend the bill as follows:

1. Page 1, Lines 9 through 14:

9 This bill ~~{expands}~~ amends the definition of "fault" to ~~{-~~  
10 include} specifically exclude intentional torts ~~{-and civil~~  
10 conspiracy} .

11 Highlighted Provisions:

12 This bill:

13 ▶ ~~{specifies that an}~~ specifically excludes intentional tort ~~{-and a~~  
13 civil conspiracy are included in} from the definition  
14 of "fault."

2. Page 2, Lines 29 through 33:

29 (2) (a) "Fault" means any actionable breach of legal duty, act, or omission  
proximately  
30 causing or contributing to injury or damages sustained by a person seeking recovery,  
including  
31 negligence in all its degrees, comparative negligence, assumption of risk, strict liability,  
32 ~~{intentional torts, civil conspiracy,}~~ breach of express or implied warranty of a  
product, products  
33 liability, and misuse, modification, or abuse of a product.

**(b) "Fault" does not include intentional torts.**

The motion to amend the bill failed with Rep. Fowlke, Rep. Hardy, and Rep. Hendrickson voting in favor of the motion. Rep. McGee and Rep. Ferrin were absent for the vote.

MOTION: Rep. Romero moved to pass H.B. 413 out favorably. The motion passed with Rep. Fowlke, Rep. Hardy, Rep. Hendrickson, and Rep. Hogue voting in opposition to the motion. Rep. McGee and Rep. Ferrin were absent for the vote.

**S.B. 41S1 Restrictions on Use of Physician Disclosures (Sen. D. Thomas)**

This bill was not considered in this meeting.

**H.B. 257 Material Harmful to Minors Amendments (Rep. D. Hogue)**

MOTION: Rep. Hogue moved to delete in title and body H.B. 257 and replace it with 1st Sub. H.B. 257. The motion passed with Rep. Lawrence voting in opposition to the motion. Rep. McGee and Rep. Ferrin were absent for the vote.

Spoke in opposition to the bill:        Scott Sabey, Entertainment Software Rating Board  
Margaret Plane, ACLU of Utah  
Robert Saunders, business owner  
Jim Olsen, Utah Retail Merchants Association

Spoke in favor of the bill:            Gayle Ruzicka, Eagle Forum

MOTION:        Rep. Hogue moved to pass 1st Sub. H.B. 257 out favorably. The motion passed with Rep. Hendrickson and Rep. Romero voting in opposition to the motion and Rep. McGee and Rep. Ferrin absent for the vote.

**S.B. 61        Uniform Mediation Act (*Sen. L. Hillyard*)**

MOTION:        Rep. Fowlke moved to delete in title and body S.B. 61 and replace it with 1st Sub. S.B. 61. The motion passed unanimously with Rep. Ferry, Rep. McGee, and Rep. Ferrin absent for the vote.

Spoke in favor of the bill:            John Fay, Utah Trial Lawyers Association

MOTION:        Rep. Hardy moved to pass 1st Sub. S.B. 61 out favorably. The motion passed unanimously with Rep. Ferry, Rep. McGee, and Rep. Ferrin absent for the vote.

**S.B. 106        Uniform Interstate Enforcement of Domestic Violence Protection Orders Act (*Sen. L. Hillyard*)**

Sen. Hillyard introduced S.B. 106 and explained it to the committee.

MOTION:        Rep. Lawrence moved to pass S.B. 106 out favorably. The motion passed unanimously with Rep. Ferry, Rep. McGee, and Rep. Ferrin absent for the vote.

**S.B. 171        Judiciary Amendments (*Sen. L. Hillyard*)**

Sen. Hillyard introduced S.B. 171 and explained it to the committee, with the assistance of Mark Jones, Administrative Office of the Courts.

MOTION:        Rep. Wyatt moved to pass S.B. 171 out favorably. The motion passed unanimously with Rep. Ferry and Rep. Ferrin absent for the vote.

MOTION:        Rep. Romero moved to place S.B. 171 on the Consent Calendar. The motion failed with Rep. Hogue voting against the motion. Rep. Ferry and Rep. Ferrin were absent for the vote.

**S.B. 134      Lien Duration of a Foreign Judgment (Sen. T. Hatch)**

Sen. Hatch introduced S.B. 134 and explained it to the committee.

Spoke in favor of the bill:                      Paul Newton, Utah Land Title Association

MOTION:      Rep. Wyatt moved to pass S.B. 134 out favorably. The motion passed unanimously with Rep. Ferry and Rep. Ferrin absent for the vote.

**S.B. 148      Punitive Damages - Discovery of Wealth (Sen. G. Bell)**

MOTION:      Rep. Wyatt moved to amend the bill as follows:

1. *Page 2, Lines 45 through 47b*  
*Senate 3rd Reading Amendments*  
*2-8-2006:*

45             $\hat{\$}$ → [~~(b)~~] (a)  $\leftarrow$   $\hat{\$}$  Discovery concerning a party's wealth or financial condition may  
                 only be  
45a      allowed  
46      after the party seeking punitive damages has established a prima facie case  $\hat{\$}$ → on the  
                 record  $\leftarrow$   $\hat{\$}$   
46a      that an award of  
47      punitive damages is reasonably  $\hat{\$}$ → [~~probable~~] {~~likely~~} possible  $\leftarrow$   $\hat{\$}$  against the  
                 party about whom  
47a      discovery is sought  $\hat{\$}$ → and, if disputed, the court is satisfied that the discovery is not  
                 sought  
47b      for the purpose of harassment  $\leftarrow$   $\hat{\$}$  .

The motion to amend the bill passed unanimously with Rep. Ferry and Rep. Ferrin absent for the vote.

Rep. Wyatt introduced S.B. 148 as amended and explained it to the committee. He was assisted by David Mortensen, Utah Defense Lawyers Association.

Spoke in favor of the bill:                      John Fay, Utah Trial Lawyers Association

MOTION:      Rep. Hogue moved to pass S.B. 148 as amended out favorably. The motion passed unanimously with Rep. Ferry and Rep. Ferrin absent for the vote.

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MOTION: Rep. Aagard moved to adjourn the meeting. The motion passed unanimously with Rep. Ferry and Rep. Ferrin absent for the vote.

Rep. Hutchings adjourned the meeting at 10:00 a.m.

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Rep. James A. Ferrin, Chair