

**MINUTES OF THE  
SENATE JUDICIARY, LAW ENFORCEMENT & CRIMINAL JUSTICE  
STANDING COMMITTEE MEETING  
TUESDAY, MARCH 2, 2010, 8:00 AM  
ROOM 250, STATE CAPITOL**

Members Present: Sen. Mark B. Madsen, Committee Chair  
Sen. Jon J. Greiner  
Sen. Lyle W. Hillyard  
Sen. Benjamin M. McAdams  
Sen. Ross J. Romero

Members Excused: Sen. Michael Waddoups

Staff Present: Jerry Howe, Policy Analyst  
Karen Allred, Committee Secretary

Public Speakers Present: Marina Lowe, Attorney, American Civil Liberties Union  
Gayle Ruzika, Eagle Forum  
Lt. Lee Perry, Utah Highway Patrol  
Lois Smart, Ed Smart, DNA Modifications  
Kent Hart, Executive Director, Utah Association of Criminal  
Lawyers  
Sheri Van Bibber, Murray Utah School District  
Pamela Atkinson, Community Advocate, Utahns Against Porn  
Tibby Milne, CEO, Utah Council for Crime Prevention

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

Committee Chair Madsen called the meeting to order at 8:04 a.m.

**Approval of Minutes**

**MOTION:** Sen. Greiner moved to approve the minutes of February 24, 2010.

The motion passed unanimously with Sens. Hillyard and Romero absent for the vote.

Sen. Greiner assumed the Committee Chair.

**1. S.B. 247 John M. Browning State Holiday (M. Madsen)**

Sen. Madsen introduced the bill.

**MOTION:** Sen. Hillyard moved to adopt 3rd Sub. S.B. 247.

The motion passed unanimously with Sen. Romero absent for the vote.

**MOTION:** Sen. McAdams moved to transmit 3rd Sub. S.B. 247 with a favorable recommendation.

The motion passed unanimously with Sen. Romero absent for the vote.

Sen. Madsen resumed the Committee Chair.

**2. S.B. 67 Public Safety Services Crossing State Borders (L. Hillyard)**

Sen. Hillyard explained the bill.

**MOTION:** Sen. Greiner moved to transmit S.B. 67 with a favorable recommendation.

The motion passed unanimously with Sen. Romero absent for the vote.

**3. S.B. 217 Increase in Surcharge on Fines (S. Jenkins)**

1st Sub. S.B. 217 was distributed.

**MOTION:** Sen. Greiner moved to adopt 1st Sub. S.B. 217.

The motion passed unanimously with Sens. Hillyard and Romero absent for the vote.

The following amendments were distributed:

1. *Page 4, Lines 100 through 101:*

100 (6) (a) From the surcharge, the Division of Finance shall allocate the first 9% to  
the Law Enforcement Services Account for the purposes described in Section  
101 51-9-412 and the remainder in the manner and for  
the purposes described in Sections 51-9-403 through 51-9-411.

2. *Page 4, Lines 115 through 116:*

115 (3) (a) The Division of Finance shall allocate ~~{the first 9% of}~~ funds from  
the collected surcharge  
116 under Section 51-9-401 to the account in accordance with Section 51-9-402, to be  
appropriated by the Legislature.

3. *Page 5, Lines 127 through 141:*

127 (6) ~~{The commission may retain up to 1% of the amount appropriated to~~  
cover the costs  
128 of administering the fund.

129 ~~—(7)}~~ For each fiscal year, any law enforcement agency that receives a grant from  
the  
130 commission under this section shall prepare, and file with the commission and the state  
auditor.

\* \* \* *Some lines not shown* \* \* \*

141 ~~{(8)}~~ (7) The commission shall report in writing to the legislative Law  
Enforcement and

**MOTION:** Sen. Greiner moved to adopt the amendments.

The motion passed unanimously with Sens. Hillyard and Romero absent for the vote.

**MOTION:** Sen. Greiner moved to transmit 1st Sub. S.B. 217 as amended with a favorable recommendation.

The motion passed unanimously with Sens. Hillyard and Romero absent for the vote.

**4. S.B. 277 DNA Modifications (J. S. Adams)**

Sen. Adams explained the bill and the following amendments were distributed:

1. *Page 1, Line 21:*

21 Department of Public Safety for the processing of the DNA specimens; ~~{and}~~

2. *Page 1, Line 24:*

24 issues an indictment ; and

► clarifies that only DNA markers used for forensic purposes may be included  
when establishing a donor's DNA profile .

3. *Page 8, Line 226:*

226 specimen from the person upon booking at the jail ~~{or upon admission to a detention~~  
~~facility}~~ .

4. *Page 8, Line 228:*

228 (b) If at the time of booking ~~{or admission to a detention facility}~~ the acting  
law

5. *Page 8, Line 242 through Page 9, Line 248:*

242 processed until ~~{~~

243 ~~(a)~~ (a) regarding the alleged violent offense for which the person was booked:  
244 ~~(i)~~ (a) the court has bound the person over for trial following a  
preliminary hearing;  
245 ~~(ii)~~ (b) after the person has waived the preliminary hearing; or  
246 ~~(iii)~~ (c) after a grand jury has returned an indictment ~~or~~  
247 ~~(b) if the person is a minor under Subsection 53-10-403(3), the person is found to~~  
~~be~~  
248 ~~within the jurisdiction of the juvenile court due to the commission of the violent~~  
~~offense}~~ .

6. Page 10, Line 290:

(g) ensure that only DNA markers routinely used or accepted in the field of  
forensic science are used to establish the profile of the donor; and  
290 ~~(f)~~ ~~(g)~~ (h) make rules in accordance with Title 63G, Chapter 3, Utah  
Administrative

**MOTION:** Sen. Greiner moved to adopt the amendments.

The motion passed unanimously with Sens. Hillyard and Romero absent for the vote.

Marina Lowe, Attorney, American Civil Liberties Union and Kent Hart, Executive Director, Utah Association of Criminal Lawyers spoke, in opposition to the bill.

Gayle Rizuka, Eagle Forum; Lt. Lee Perry, Utah Highway Patrol and Lois Smart representing Ed Smart, DNA, spoke in support of the bill.

**MOTION:** Sen. Greiner moved to transmit S.B. 277 as amended with a favorable recommendation.

The motion passed unanimously with Sen. Hillyard absent for the vote.

Sen. Greiner assumed the Committee Chair.

## 5. S.B. 248 Child Registry Amendments (M. Madsen)

Sen. Madsen introduced the bill and the following amendments were distributed:

1. Page 1, Line 26:

26 (1) (a) A person may not send, cause to be sent, or conspire with a third party to  
send a

2. Page 2, Lines 29 through 36:

29            ~~{(a)}~~    (i)    has the primary purpose of advertising or promoting a product or  
          service that a  
30    minor ~~{:~~  
31    ~~—(i)}~~    is prohibited by law from purchasing , except as provided in Subsection  
          (1)(b) ; ~~{+}~~ or ~~{+}~~    ~~{and}~~  
32    ~~—(ii) is able to purchase or use without a face-to-face transaction in which the~~  
          ~~minor's~~  
33    ~~age can be objectively verified; or }~~  
34            ~~{(b)}~~    (ii)    contains or has the primary purpose of advertising or promoting  
          material that:  
35            ~~{(i)}~~    (A)    is harmful to minors, as defined in Section 76-10-1201~~[-]; or~~  
36            ~~{(ii)}~~    (B)    ~~— {exposes}~~    would expose a minor to an enticement to  
          consume alcohol or use tobacco .

(b) Subsection (1)(a)(i) does not prohibit a communication that advertises or promotes gambling if:

(i) the gambling that is advertised or promoted:

(A) is to occur outside the state; and

(B) is lawful where it occurs; and

(ii) the communication does not advertise or promote material that:

(A) is harmful to minors, as defined in Section 76-10-1201; or

(B) would expose a minor to an enticement to consume alcohol or use tobacco.

**MOTION:** Sen. Madsen moved to adopt the amendments.

The motion passed unanimously with Sen. Hillyard absent for the vote.

Sen. Madsen explained the bill.

Sheri Van Bibber, Murray Utah School District, spoke in support of the bill.

Pamele Atkinson, Community Advocate, Utahns Against Porn, and Tibby Milne, CEO, Utah Council for Crime Prevention, spoke to the bill.

**MOTION:** Sen. McAdams moved to transmit S.B. 248 as amended with a favorable recommendation.

The motion passed unanimously with Sen. Hillyard absent for the vote.

**MOTION:** Sen. Romero moved to adjourn.

The motion passed unanimously with Sen. Hillyard absent for the vote.

The meeting adjourned at 9:10 a.m.

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Sen. Mark B. Madsen, Committee Chair