MINUTES OF THE HOUSE JUDICIARY STANDING COMMITTEE MEETING

20 House Building, Utah State Capitol Complex February 13, 2014

Members Present: Rep. Kay L. McIff, Chair

Rep. Lee B. Perry, Vice Chair

Rep. Patrice Arent Rep. LaVar Christensen Rep. Brian M. Greene

Rep. Craig Hall

Rep. Eric K Hutchings Rep. Brian S. King Rep. V. Lowry Snow

Staff Present: Ms. Chelsea Lloyd, Policy Analyst

Ms. Linda Black, Committee Secretary

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

Vice Chair Perry called the meeting to order at 4:10 p.m.

MOTION: Rep. Snow moved to approve the minutes of February 10, 2014 meeting. The

motion passed unanimously with Rep. Arent, Rep. Hutchings, and Rep. McIff

absent for the vote.

H.B. 56 Mechanics Lien Revisions (Rep. M. McKell)

Rep. McKell explained the bill to the committee.

MOTION: Rep. Hall moved to replace H.B. 56 with 2nd Substitute H.B. 56, "Mechanics

Lien Revisions." The motion passed unanimously with Rep. Arent and Rep.

Hutchings absent for the vote.

MOTION: Rep. King moved to pass the bill out favorably. The motion passed unanimously

with Rep. Arent, Rep. Hutchings, and Rep. Perry absent for the vote.

H.B. 279 Judiciary Interim Committee Sunset Provisions (Rep. K. McIff)

Chair McIff explained the bill to the committee.

MOTION: Chair McIff moved to pass the bill out favorably. The motion passed

unanimously with Rep. Arent, Rep. Christensen, Rep. Hutchings, and Rep. Perry

absent for the vote.

S.B. 108 Judiciary Amendments (Sen. L. Hillyard) (Rep. V. L. Snow)

Sen. Hillyard explained the bill to the committee.

MOTION: Rep. Snow moved to pass the bill out favorably. The motion passed unanimously with Rep. Arent, Rep. Hutchings, and Rep. Perry absent for the vote.

S.B. 115 Court Transcript Fees (Sen. P. Jones) (Rep. V. L. Snow)

Sen. Jones explained the bill to the committee.

Spoke for the bill: Ms. Carolyn Erickson, Utah Court Reporters

Ms. Debra A. Dibble, Utah Court Reporters Association

Mr. Tyler Felt, representing himself

Spoke to the bill: Mr. Rick Schwermer, Utah Administrative Office of the Courts

MOTION: Rep. Snow moved to pass the bill out favorably. The motion passed unanimously with Rep. Arent and Rep. Perry absent for the vote.

H.B. 325 Judicial Performance Evaluation Commission Amendments (Rep. E. Hutchings)

Rep. Hutchings explained the bill to the committee.

Spoke to the bill: Ms. Joanne Slotnik, Executive Director, Utah Judicial Performance

Commission

Mr. Rick Schwermer, Utah Administrative Office of the Courts

MOTION: Rep. Hall moved to pass the bill out favorably. The motion passed unanimously with Rep. Arent and Rep. Perry absent for the vote.

H.B. 323 Divorce Orientation Course Timing (Rep. J. Nielson)

Rep. Nielson explained the bill to the committee.

MOTION: Chair McIff moved to amend the bill as follows:

1. Page 1, Lines 11 through 15:

This bill:

requires a { prospective petitioner filing for } party to a divorce to complete the divorce

- orientation course prior to the court { entering } hearing any temporary orders { unless
- 14 circumstances exist regarding the safety of the petitioner or the petitioner's minor
- 15 child ; and
- 2. *Page 2, Lines 36 through 38:*
 - 36 (3) {The} With the exception of temporary restraining orders pursuant to

 Rule 65, Utah Rules of Civil Procedure, a party may file, but the court may not

 {enter any} hear, temporary orders until the petitioner party seeking

 temporary orders has completed the
 - 37 <u>divorce orientation course</u> { , unless the court determines that an order is necessary to protect the
 - 38 <u>safety of the petitioner or a minor child of the petitioner</u>} .

The motion passed unanimously with Rep. Arent, Rep. Greene, Rep. Hutchings, and Rep. Perry absent for the vote.

Spoke to the bill: Mr. Rick Schwermer, Utah Administrative Office of the Courts Mr. Stewart Ralphs, Legal Aid Society, Salt Lake City

MOTION: Rep. King moved to pass the bill out favorably as amended. The motion passed unanimously with Rep. Perry absent for the vote.

1st Sub. H.B. 268 Dangerous Weapons Amendments (Rep. B. Greene)

Rep. Greene explained the bill to the committee.

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

- 1. Page 1, Lines 9 through 16:
 - This bill redefines dangerous weapon { and exempts } ___, clarifies restrictions relating to dangerous weapons, and establishes exemptions for the use of archery equipment { from the
 - 10 definition for hunting and target shooting.
 - 11 Highlighted Provisions:
 - This bill:
 - defines dangerous weapon as a firearm or an object which is used unlawfully to
 - inflict serious bodily injury;

- 15 \rightarrow \{\text{exempts archery equipment, including crossbows, from the definition of dangerous}\}
- 16 weapon } clarifies the criminal culpability of transferring a dangerous weapon to a restricted person ;
 - provides that a restricted person may own, possess, or have under the person's custody or control, archery equipment, including crossbows, for the purpose of lawful hunting and target shooting; and
- 2. *Page 4, Lines 88 through 101:*
 - 88 (6) (a) "Dangerous weapon" means:
 - 89 (i) a firearm; or
 - 90 (ii) an {item} object that in the manner of its {unlawful} use or intended {unlawful} use is capable
 - 91 of causing death or serious bodily injury.
 - 92 (b) The following factors [shall be] are used in determining whether [a knife, or
 - 93 another item] any {instrument, } object {, or thing} [not commonly known as a dangerous weapon]
 - 94 other than a firearm is a dangerous weapon:
 - 95 (i) the {character of the instrument,} location and context in which the object {, or thing} was used or possessed;
 - (ii) the primary purpose for which the object was made ;

 - 97 {-(iii) } (iv) the manner in which the { instrument, } object { , or thing } was unlawfully used; and
 - 98 { (iv) } (v) the [other] lawful purposes for which the { instrument, } object { , or thing } may be used.
 - 99 (c) {Unless specifically identified elsewhere in this code, nothing other than a firearm is
 - 100 <u>considered a de facto dangerous weapon, and</u>} <u>Whenever reasonably possible,</u>

 <u>a determination made pursuant to Subsection</u>
 - 101 (6)(b) { may } shall be made { only } after an { instrument, } object { or thing } is used in an unlawful or threatening manner.
- 3. Page 6, Line 179 through Page 7, Line 181:
 - (b) physically possesses, uses, or has under the person's immediate custody or control

- any dangerous weapon other than a firearm while committing any felony or other violent
- criminal offense or any action that constitutes a serious threat to public safety is guilty of a third degree felony.
- 4. Page 7, Lines 185 through 187:
 - (b) physically possesses, uses, or has under the person's immediate custody or control
 - any dangerous weapon other than a firearm while committing any felony or other violent
 - 187 <u>criminal offense</u> <u>, or any action that constitutes a serious threat to public safety</u> is guilty of a class A misdemeanor.
- 5. Page 9, Lines 266 through 268:
 - 266 (2) It is not a violation of { this chapter } Subsection 76-10-503(2) or (3) for a person defined in Section 76-10-503(1) to own, possess, or have under the
 - 267 <u>person's custody or control, archery equipment, including crossbows, for the purpose of lawful</u>
 - 268 <u>hunting</u> { or } <u>and lawful</u> <u>target shooting.</u>

The motion passed unanimously.

MOTION: Rep. Greene moved to further amend the bill as follows:

- 1. Page 6, Line 179 through Page 7, Line 181:
 - (b) physically possesses, uses, or has under the person's immediate custody or control
 - any dangerous weapon other than a firearm while committing any felony or other violent
 - 181 <u>criminal offense</u> <u>, or</u> {<u>any action</u>} <u>possesses a dangerous weapon in a manner</u> <u>that constitutes a serious threat to public safety</u> is guilty of a third degree felony.
- 2. *Page 7, Lines 185 through 187:*
 - (b) physically possesses, uses, or has under the person's immediate custody or control
 - any dangerous weapon other than a firearm while committing any felony or other violent
 - 187 <u>criminal offense</u> <u>, or</u> {<u>any action</u>} <u>possesses a dangerous weapon in a manner</u> <u>that constitutes a serious threat to public safety</u> is guilty of a class A misdemeanor.

Spoke to the bill: Mr. Paul Boyden, Executive Director, Statewide Association of Prosecutors

Mr. Steve Thomas, representing himself

Mr. Steven Athay, representing himself

SUBSTITUTE MOTION: Rep. King moved to hold the bill. The motion passed with

Rep. Greene voting in opposition. Rep. Perry was absent

for the vote.

MOTION: Rep. Arent moved to adjourn the meeting. The motion passed

unanimously with Rep. Perry absent for the vote.

Chair McIff adjourned the meeting at 6:25 p.m.

Kay L. McIff, Chair