

**MINUTES OF THE
SENATE JUDICIARY, LAW ENFORCEMENT, AND CRIMINAL JUSTICE
STANDING COMMITTEE**

Tuesday, February 21, 2017 • 4:00 p.m. • 250 State Capitol

Members Present:

Sen. Todd Weiler, Chair
Sen. Gene Davis
Sen. Luz Escamilla
Sen. Lyle W. Hillyard
Sen. Daniel W. Thatcher

Members Absent:

President Wayne L. Niederhauser
Sen. Ralph Okerlund

Staff Present:

Mr. Gregg A. Girvan, Policy Analyst
Ms. Nancy Skidmore, Committee Secretary

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at le.utah.gov.

Chair Weiler called the meeting to order at 4:16 p.m.

MOTION: Sen. Hillyard moved to approve the minutes of the February 17, 2017 meeting. The motion passed with a vote of 2-0-5.

Yeas:

Sen. Hillyard
Sen. Weiler

Nays:

Absent:

Sen. Davis
Sen. Escamilla
Pres. Niederhauser
Sen. Okerlund
Sen. Thatcher

1. S.B. 225 Judgment Interest Rate Amendments (*Bramble, C.*)

MOTION: Sen. Hillyard moved to amend S.B. 225 with Amendment #1 as follows:

1. Page 2, Lines 42 through 44:

- 42 (3) (a) Except as otherwise provided by law, or as governed by Subsection
43 (4)(a). all other final civil and criminal
43 judgments of the district court and justice court shall bear interest at the federal
postjudgment
44 interest rate as of January 1 of each year, plus 2%.

The motion passed with a vote of 2-0-5.

Yeas:

Sen. Hillyard
Sen. Weiler

Nays:

Absent:

Sen. Davis
Sen. Escamilla
Pres. Niederhauser
Sen. Okerlund
Sen. Thatcher

Sen. Bramble explained the bill.

MOTION: Sen. Hillyard moved to pass S.B. 225 out favorably. The motion passed with a vote of 2-0-5.

Yeas:

Sen. Hillyard
Sen. Weiler

Nays:

Absent:

Sen. Davis
Sen. Escamilla
Pres. Niederhauser
Sen. Okerlund
Sen. Thatcher

2. S.B. 232 Cyber Exploitation Amendments (*Bramble, C.*)

Sen. Bramble presented the bill with the assistance of Ms. Analea Pattersen, Partner, Orrick's Public Policy Group

Ms. Shelley Coudault, Assistant Attorney General, spoke to the bill.

Ms. Jessica Farnsworth, Internet Crimes Against Children Task Force, Attorney General's Office, spoke in favor of the bill.

Mr. Will Carlson, Salt Lake County Attorney's Office, Statewide Association of Prosecutors, spoke in favor of the bill.

MOTION: Sen. Hillyard moved to amend S.B. 232 with Amendment #1 as follows:

1. *Page 3, Lines 81 through 82:*

81 separate criminal act if the individual commits the separate criminal act while the

individual
82 violates or attempts to violate this section.

(7) An interactive computer service, as defined in 47 U.S.C. Sec. 230, is not subject to liability under this section related to content provided by a user of the interactive computer service.

The motion passed with a vote of 4-0-3.

Yeas:

Sen. Escamilla
Sen. Hillyard
Sen. Thatcher
Sen. Weiler

Nays:

Absent:

Sen. Davis
Pres. Niederhauser
Sen. Okerlund

MOTION: Sen. Hillyard moved to pass S.B. 232 out favorably. The motion passed with a vote of 4-0-3.

Yeas:

Sen. Escamilla
Sen. Hillyard
Sen. Thatcher
Sen. Weiler

Nays:

Absent:

Sen. Davis
Pres. Niederhauser
Sen. Okerlund

3. S.B. 146 Constable Amendments (*Fillmore, L.*)

Sen. Fillmore explained the bill.

MOTION: Sen. Thatcher moved to replace S.B. 146 with 1st Substitute S.B. 146. The motion passed with a vote of 5-0-2.

Yeas:

Sen. Davis
Sen. Escamilla
Sen. Hillyard
Sen. Thatcher
Sen. Weiler

Nays:

Absent:

Pres. Niederhauser
Sen. Okerlund

Mr. Steve Maese, Wasatch Constables, spoke in opposition to the bill.

Mr. John Sindt, Salt Lake Constables, spoke in opposition to the bill.

MOTION: Sen. Thatcher moved to amend 1st Substitute S.B. 146 with Amendment #1 as follows:

1. *Page 1, Lines 11 through 13:*

11 This bill:
12 { ~~→ repeals provisions related to fees for constables;~~
13 ▶ clarifies which local entities are authorized to appoint a constable;

2. *Page 1, Line 25 through Page 2, Line 30:*

25 REPEALS AND REENACTS:
26 17-25a-1, as last amended by Laws of Utah 1993, Chapters 38 and 234
27 { ~~REPEALS:~~
28 ~~17-25-2, as renumbered and amended by Laws of Utah 2001, Chapter 46~~
29 ~~17-25-3, as renumbered and amended by Laws of Utah 2001, Chapter 46~~
30 ~~17-25a-4, as last amended by Laws of Utah 2001, Chapter 46~~ }

3. *Page 2, Lines 41 through 43:*

41 (2) ~~[Any]~~ A constable may serve any process throughout the state.
42 { ~~(3) A constable may charge a fee to the person for whom the constable is~~
~~providing~~
43 ~~service in an amount mutually agreed upon.~~ }

4. *Page 3, Lines 79 through 86:*

79 (5) The legislative body of a county or city described in Subsection (1)(a) may
80 withdraw a constable's appointment for cause, including if the constable's peace officer
81 certification is suspended or revoked under Section 53-6-211.
82 { ~~Section 3. Repealer:~~
83 ~~This bill repeals:~~
84 ~~Section 17-25-2, Fees for constables—Civil.~~
85 ~~Section 17-25-3, Fees for constables—Criminal.~~
86 ~~Section 17-25a-4, Rates recoverable—Exception.~~ }

The motion passed with a vote of 3-2-2.

Yeas:

Sen. Hillyard
Sen. Thatcher
Sen. Weiler

Nays:

Sen. Davis
Sen. Escamilla

Abs:

Pres. Niederhauser
Sen. Okerlund

MOTION: Sen. Thatcher moved to go to the next item on the agenda.

SUBSTITUTE MOTION: Sen. Davis moved to go to the next item on the agenda with the provision that if the bill does not pass it will go to interim study. The motion passed with a vote of 4-1-2.

Yeas:

Sen. Davis
Sen. Escamilla
Sen. Hillyard
Sen. Thatcher

Nays:

Sen. Weiler

Abs:

Pres. Niederhauser
Sen. Okerlund

4. S.B. 237 Servicemembers Custody and Visitation Amendments (*Hillyard, L.*)

Sen. Hillyard presented the bill with the assistance of Mr. Brian Garrett, Chair, Salt Lake Military Affairs Committee and Col. Tyler Smith, Legislative Liaison, Utah National Guard.

Ms. Dani Hartsvigsen, Coalition for the Preservation of Family Values, spoke to the bill.

MOTION: Sen. Hillyard moved to pass S.B. 237 out favorably. The motion passed with a vote of 5-0-2.

Yeas:

Sen. Davis
Sen. Escamilla
Sen. Hillyard
Sen. Thatcher
Sen. Weiler

Nays:

Abs:

Pres. Niederhauser
Sen. Okerlund

5. S.B. 235 Assault and Threat of Violence Amendments (*Thatcher, D.*)

Sen. Thatcher explained the bill.

Dr. Ellen Brady spoke in opposition to the bill.

Mr. Will Carlson, Salt Lake County Attorney's Office, Statewide Association of Prosecutors, spoke in favor of the bill.

MOTION: Sen. Thatcher moved to pass S.B. 235 out favorably. The motion passed with a vote of 5-0-2.

Yeas:

Sen. Davis
Sen. Escamilla
Sen. Hillyard
Sen. Thatcher
Sen. Weiler

Nays:

Absent:

Pres. Niederhauser
Sen. Okerlund

Sen. Hillyard assumed the chair.

6. S.B. 239 Interfering with a Peace Officer (*Weiler, T.*)

MOTION: Sen. Weiler moved to amend S.B. 239 with Amendment #1 as follows:

1. *Page 1, Line 24 through Page 2, Line 34:*

24 76-8-305. Interference with peace officer.

25 ~~(1)~~ A person is guilty of a class B misdemeanor if [~~he has knowledge~~] the
person knows, or

26 by the exercise of reasonable care should have [~~knowledge~~] known, that a peace officer is
27 seeking to effect a lawful arrest or detention of that person or another person and
interferes

28 with the arrest or detention by:

29 { ~~(1)~~ (a) use of force or any weapon;

30 { ~~(2)~~ (b) [~~the arrested person's refusal~~] refusing to perform any act
required by lawful order:

31 { ~~(3)~~ (i) necessary to effect the arrest or detention; and

- 32 { ~~(b)~~ (ii) made by a peace officer involved in the arrest or detention; or
33 { ~~(3)~~ (c) [the arrested person's or another person's refusal] refusing to
refrain from
34 performing any act that would impede the arrest or detention.

(2) Recording the actions of a law enforcement officer with a camera, mobile phone, or other photographic device, while the officer is performing official duties in plain view, does not by itself constitute:

(a) interference with the officer;

(b) willful resistance;

(c) disorderly conduct; or

(d) obstruction of justice.

The motion passed with a vote of 5-0-2.

Yeas:

Nays:

Absent:

Sen. Davis
Sen. Escamilla
Sen. Hillyard
Sen. Thatcher
Sen. Weiler

Pres. Niederhauser
Sen. Okerlund

Sen. Weiler presented the bill with the assistance of Craig Kleinman, Deputy City Attorney, West Jordan City.

Ms. Marina Lowe, Legislative Council, American Civil Liberties Union of Utah, spoke in favor of the bill.

Mr. Tom Ross, Bountiful Police Chief, spoke in favor of the bill.

MOTION: Sen. Weiler moved to pass S.B. 239 out favorably. The motion passed with a vote of 5-0-2.

Yeas:

Nays:

Absent:

Sen. Davis
Sen. Escamilla
Sen. Hillyard
Sen. Thatcher
Sen. Weiler

Pres. Niederhauser
Sen. Okerlund

7. S.B. 230 Solicitation Amendments (*Weiler, T.*)

Sen. Weiler presented the bill with the assistance of Mr. Jim Winder, Salt Lake County Sheriff.

Mr. Tom Ross, Bountiful Police Chief, spoke in favor of the bill.

MOTION: Sen. Weiler moved to pass S.B. 230 out favorably. The motion passed with a vote of 5-0-2.

Yeas:

Sen. Davis
Sen. Escamilla
Sen. Hillyard
Sen. Thatcher
Sen. Weiler

Nays:

Absent:

Pres. Niederhauser
Sen. Okerlund

8. S.B. 226 Permanent Criminal Stalking Injunction Amendments (*Weiler, T.*)

Sen. Weiler explained the bill.

Mr. Stewart Ralphs, Legal Aid Society of Salt Lake, spoke in favor of the bill.

MOTION: Sen. Weiler moved to pass S.B. 226 out favorably. The motion passed with a vote of 4-0-3.

Yeas:

Sen. Davis
Sen. Escamilla
Sen. Hillyard
Sen. Weiler

Nays:

Absent:

Pres. Niederhauser
Sen. Okerlund
Sen. Thatcher

MOTION: Sen. Davis moved to adjourn. The motion passed with a vote of 4-0-3.

Yeas:

Sen. Davis
Sen. Escamilla
Sen. Hillyard
Sen. Weiler

Nays:

Absent:

Pres. Niederhauser
Sen. Okerlund
Sen. Thatcher

Acting Chair Hillyard adjourned the meeting at 5:33 p.m.

Sen. Todd Weiler, Chair