

**MINUTES OF THE
HOUSE JUDICIARY
STANDING COMMITTEE**

Friday, February 24, 2017 • 7:40 am • 20 House Building

Members Present:

Rep. Mike K. McKell, Chair
Rep. V. Lowry Snow, Vice Chair
Rep. Kim F. Coleman
Rep. Bruce R. Cutler
Rep. Brian M. Greene
Rep. Ken Ivory
Rep. Brian S. King
Rep. Karianne Lisonbee
Rep. Dixon M. Pitcher

Rep. Susan Pulsipher
Rep. Tim Quinn

Members Absent:

Rep. Mark A. Wheatley

Staff Present:

Mr. Joseph T. Wade, Policy Analyst
Mr. Steve Benard, 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.

Vice Chair Snow called the meeting to order at 7:47 a.m.

MOTION: Rep. Quinn moved to approve the minutes of the February 16, 17, and 22, 2017, meetings.

The motion passed with a vote of 7-0-5.

Yeas:

Rep. K. Coleman
Rep. B. Cutler
Rep. B. King
Rep. M. McKell
Rep. S. Pulsipher
Rep. T. Quinn
Rep. V. Snow

Nays:

Abs:

Rep. B. Greene
Rep. K. Ivory
Rep. K. Lisonbee
Rep. D. Pitcher
Rep. M. Wheatley

1. H.B. 369 Sexual Offenses and Statutory Nonconsent Amendments (*Fawson, J.*)

Rep. Justin L. Fawson presented the bill.

Mr. Troy Williams, Equality Utah, spoke in opposition the bill.

Mr. Will Carlson, Statewide Association of Prosecutors, spoke to the bill.

MOTION: Rep. Ivory moved to replace H.B. 369 with 1st Substitute H.B. 369.
The motion passed with a vote of 11-0-1.

Yeas:

Rep. K. Coleman
Rep. B. Cutler
Rep. B. Greene
Rep. K. Ivory
Rep. B. King
Rep. K. Lisonbee
Rep. M. McKell
Rep. D. Pitcher
Rep. S. Pulsipher
Rep. T. Quinn
Rep. V. Snow

Nays:

Abs:

Rep. M. Wheatley

MOTION: Rep. Cutler moved to amend 1st Substitute H.B. 369 with Amendment #1.

1. *Page 1, Lines 10 through 21:*

10 This bill amends and enacts provisions related to sexual offenses without the
consent of
11 the victim when the actor is infected with { ~~Human Immunodeficiency Virus or
Acquired
12 Immunodeficiency Virus~~} a sexually transmitted disease .
13 Highlighted Provisions:
14 This bill:
15 ▶ enacts provisions to enhance the classification of a sexual offense if the actor
was
16 infected with { ~~Human Immunodeficiency Virus or Acquired Immunodeficiency
17 Virus~~} a sexually transmitted disease ;
18 ▶ amends provisions related to sexual offenses without the consent of the victim;
and
19 ▶ enacts provisions criminalizing sexual conduct by a person infected with { ~~Human
20 Immunodeficiency Virus or Acquired Immunodeficiency Virus~~} a sexually
transmitted disease without informing
21 the other person of the infection .

2. Page 2, Lines 35 through 40:

35 76-3-203.12. Enhanced penalty for sexual offenses committed by a person with
36 { ~~Human Immunodeficiency Virus or Acquired Immunodeficiency Virus~~ } a
sexually transmitted disease .
37 (1) A person convicted of a sexual offense described in Chapter 5, Part 4, Sexual
38 Offenses, is subject to an enhanced penalty if at the time of the sexual offense the person
was
39 infected with { ~~Human Immunodeficiency Virus or Acquired Immunodeficiency~~
~~Virus~~ } a sexually transmitted disease and the
40 person knew of the infection.

3. Page 4, Lines 106 through 107:

106 (a) the actor knows that the actor is infected with { ~~the Human~~
Immunodeficiency Virus
107 or Acquired Immunodeficiency Virus } a sexually transmitted disease ; and

The motion failed with a vote of 2-9-1.

Yeas:

Rep. B. Cutler
Rep. S. Pulsipher

Nays:

Rep. K. Coleman
Rep. B. Greene
Rep. K. Ivory
Rep. B. King
Rep. K. Lisonbee
Rep. M. McKell
Rep. D. Pitcher
Rep. T. Quinn
Rep. V. Snow

Abs:

Rep. M. Wheatley

MOTION: Rep. Quinn moved to report a favorable recommendation on 1st Substitute H.B. 369. Later in the meeting, Rep. Quinn withdrew this motion.

MOTION: Rep. Greene moved to amend 1st Substitute H.B. 369 with Amendment #2. Later in the meeting, Rep. Greene withdrew this motion.

1. *Page 2, Lines 46 through 54:*

46 76-5-406. Sexual offenses against the victim without consent of victim --
47 Circumstances.
48 { ~~An act of sexual intercourse~~ Sexual activity [~~, rape, attempted rape,~~
 ~~rape of a child, attempted rape of a~~
49 ~~child, object rape, attempted object rape, object rape of a child, attempted object rape of a~~
50 ~~child, sodomy, attempted sodomy, forcible sodomy, attempted forcible sodomy, sodomy~~
 ~~on a~~
51 ~~child, attempted sodomy on a child, forcible sexual abuse, attempted forcible sexual~~
 ~~abuse,~~
52 ~~sexual abuse of a child, attempted sexual abuse of a child, aggravated sexual abuse of a~~
 ~~child,~~
53 ~~attempted aggravated sexual abuse of a child, or simple sexual abuse]~~ is without consent
 of the
54 victim under any of the following circumstances:

MOTION: Rep. Ivory moved to report a favorable recommendation on 1st Substitute H.B. 369.

SUBSTITUTE MOTION: Rep. Lisonbee moved to amend 1st Substitute H.B. 369 with Amendment #3. Rep. Lisonbee later withdrew this motion.

1. *Page 2, Lines 46 through 54:*

46 76-5-406. Sexual offenses against the victim without consent of victim --
47 Circumstances.
48 An act of sexual intercourse or sexual conduct that may result in becoming
 infected with the Human Immunodeficiency Virus or Acquired Immunodeficiency
 Virus [~~, rape, attempted rape, rape of a child, attempted rape of a~~
49 ~~child, object rape, attempted object rape, object rape of a child, attempted object rape of a~~
50 ~~child, sodomy, attempted sodomy, forcible sodomy, attempted forcible sodomy, sodomy~~
 ~~on a~~
51 ~~child, attempted sodomy on a child, forcible sexual abuse, attempted forcible sexual~~
 ~~abuse,~~
52 ~~sexual abuse of a child, attempted sexual abuse of a child, aggravated sexual abuse of a~~

- ~~child;~~
53 ~~attempted aggravated sexual abuse of a child, or simple sexual abuse]~~ is without consent
of the
54 victim under any of the following circumstances:

Rep. Ivory's motion to report a favorable recommendation on 1st Substitute H.B. 369 passed with a vote of 9-2-1.

Yeas:

Rep. K. Coleman
Rep. B. Greene
Rep. K. Ivory
Rep. K. Lisonbee
Rep. M. McKell
Rep. D. Pitcher
Rep. S. Pulsipher
Rep. T. Quinn
Rep. V. Snow

Nays:

Rep. B. Cutler
Rep. B. King

Abs:

Rep. M. Wheatley

Chair McKell assumed the chair.

2. S.B. 70 Asset Forfeiture Transparency Amendments (*Stephenson, H.*)

Sen. Howard A. Stephenson presented the bill.

Mr. Tom Ross, Bountiful City Police Chief, representing Utah Chiefs of Police Association, spoke in opposition to the bill.

Mr. Brandon Smith, Utah League of Cities and Towns, spoke in opposition to the bill.

Mr. Mike Melendez, Libertas Institute, spoke in favor of the bill.

Ms. Brittney Nystrom spoke in favor of the bill.

MOTION: Rep. King moved to report a favorable recommendation on S.B. 70.

The motion passed with a vote of 11-0-1.

Yeas:

Nays:

Abs:

Rep. K. Coleman
Rep. B. Cutler
Rep. B. Greene
Rep. K. Ivory
Rep. B. King
Rep. K. Lisonbee
Rep. M. McKell
Rep. D. Pitcher
Rep. S. Pulsipher
Rep. T. Quinn
Rep. V. Snow

Rep. M. Wheatley

3. H.B. 332 Criminal Procedure Revisions (Roberts, M.)

Rep. Marc K. Roberts presented the bill.

Mr. Paul Boyden, Statewide Association of Prosecutors, spoke to the bill.

MOTION: Rep. Pulsipher moved to amend H.B. 332 with Amendment #1.

1. Page 2, Lines 39 through 42:

39 (i) have a jury that is informed of:

40 (A) the potential sentence { ~~and direct legal consequences of~~ for a
guilty verdict; and

41 (B) the jury's power to find a defendant not guilty when a guilty verdict would be
42 manifestly unjust.

2. Page 3, Lines 59 through 64:

59 (2) The jury may find a general verdict which includes questions of law as well as
fact

60 { ~~+~~ but they are bound to follow the law as stated by the court } + .

61 (3) The jury shall be informed of:

62 (a) the potential sentence { ~~and direct legal consequences of~~ for a
guilty verdict; and

63 (b) the jury's power to find a defendant not guilty when a guilty verdict would be
64 manifestly unjust.

The motion passed with a vote of 10-0-2.

Yeas:

Rep. K. Coleman
Rep. B. Cutler
Rep. B. Greene
Rep. K. Ivory
Rep. K. Lisonbee
Rep. M. McKell
Rep. D. Pitcher
Rep. S. Pulsipher
Rep. T. Quinn
Rep. V. Snow

Nays:

Abs:

Rep. B. King
Rep. M. Wheatley

MOTION: Rep. Coleman moved to report a favorable recommendation on H.B. 332, as amended.

SUBSTITUTE MOTION: Rep. Snow moved to hold H.B. 332.

The motion failed with a vote of 4-7-1.

Yeas:

Rep. B. Cutler
Rep. B. King
Rep. M. McKell
Rep. V. Snow

Nays:

Rep. K. Coleman
Rep. B. Greene
Rep. K. Ivory
Rep. K. Lisonbee
Rep. D. Pitcher
Rep. S. Pulsipher
Rep. T. Quinn

Abs:

Rep. M. Wheatley

Rep. Coleman's motion to report a favorable recommendation on H.B. 332, as amended, passed with a vote of 7-4-1.

Yeas:

Rep. K. Coleman
Rep. B. Greene
Rep. K. Ivory
Rep. K. Lisonbee
Rep. D. Pitcher
Rep. S. Pulsipher
Rep. T. Quinn

Nays:

Rep. B. Cutler
Rep. B. King
Rep. M. McKell
Rep. V. Snow

Abs:

Rep. M. Wheatley

4. H.B. 289 Grandparent Visitation Amendments (*Christensen, L.*)

Rep. LaVar Christensen presented the bill.

Mr. Bryant McConkie spoke in opposition to the bill.

Ms. Laurieann Thorpe, Board Chair, Foster Families of Utah, spoke in opposition to the bill.

Mr. Dan Deuel, National Parents Organization of Utah, spoke to the bill.

Ms. Sheila Stromberg spoke in opposition to the bill.

Ms. Julie Anderson spoke in favor of the bill.

Mr. Brent Platt, Division of Child and Family Services, spoke to the bill.

MOTION: Rep. Lisonbee moved to adjourn.
The motion failed with a vote of 5-5-2.

Yeas:

Rep. B. King
Rep. K. Lisonbee
Rep. M. McKell
Rep. S. Pulsipher
Rep. V. Snow

Nays:

Rep. K. Coleman
Rep. B. Cutler
Rep. B. Greene
Rep. D. Pitcher
Rep. T. Quinn

Abs:

Rep. K. Ivory
Rep. M. Wheatley

MOTION: Rep. Greene moved to report a favorable recommendation on H.B. 289.
The motion passed with a vote of 8-2-2.

Yeas:

Rep. K. Coleman
Rep. B. Greene
Rep. K. Lisonbee
Rep. M. McKell
Rep. D. Pitcher
Rep. S. Pulsipher
Rep. T. Quinn
Rep. V. Snow

Nays:

Rep. B. Cutler
Rep. B. King

Abs:

Rep. K. Ivory
Rep. M. Wheatley

MOTION: Rep. Lisonbee moved to adjourn.
The motion passed with a vote of 10-0-2.

Yeas:

Rep. K. Coleman
Rep. B. Cutler
Rep. B. Greene
Rep. B. King
Rep. K. Lisonbee
Rep. M. McKell
Rep. D. Pitcher
Rep. S. Pulsipher
Rep. T. Quinn
Rep. V. Snow

Nays:

Abs:

Rep. K. Ivory
Rep. M. Wheatley

Chair McKell adjourned the meeting at 10:04 a.m.

Rep. Michael K. McKell, Chair