

**MINUTES OF THE
HOUSE JUDICIARY
STANDING COMMITTEE**

Wednesday, March 1, 2017 • 4:10 pm • 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
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 V. Snow called the meeting to order at 4:26 p.m.

1. H.B. 131 Child Placement Revisions (*Christofferson, K.*)

Rep. Kay J. Christofferson presented the bill.

Ms. Jacqueline F. de Gaston spoke in favor of the bill.

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

Mr. Wayne Woodfield spoke in favor of the bill.

MOTION: Rep. Quinn moved to replace H.B. 131 with 1st Substitute H.B. 131.
The motion passed with a vote of 8-0-4.

Yeas:

Rep. B. Greene
Rep. B. King
Rep. K. Lisonbee
Rep. M. McKell
Rep. S. Pulsipher
Rep. T. Quinn
Rep. V. Snow
Rep. M. Wheatley

Nays:

Abs:

Rep. K. Coleman
Rep. B. Cutler
Rep. K. Ivory
Rep. D. Pitcher

MOTION: Rep. Pulsipher moved to amend 1st Substitute H.B. 131 with Amendment #1.

1. Page 6, Lines 177 through 180:

177 (c) the individual communicates the request:
178 (i) { ~~no less than~~ within 30 days after receipt of a denial letter from the
division informing the
179 individual that the child was placed elsewhere, if the individual had previously expressed
180 willingness to the division to have the child placed in the individual's home; or

2. Page 7, Lines 181 through 184:

181 (ii) { ~~no less than~~ within 30 days after the child is placed into an
ongoing placement, if the
182 individual did not have an opportunity to express willingness to have the child placed in
the
183 individual's home because the individual did not receive notice, before the division made
the
184 ongoing placement decision, that the child was in need of an ongoing placement.

The motion passed with a vote of 8-0-4.

Yeas:

Rep. B. Greene
Rep. B. King
Rep. K. Lisonbee
Rep. M. McKell
Rep. S. Pulsipher
Rep. T. Quinn
Rep. V. Snow
Rep. M. Wheatley

Nays:

Abs:

Rep. K. Coleman
Rep. B. Cutler
Rep. K. Ivory
Rep. D. Pitcher

Chair McKell assumed the chair.

MOTION: Rep. Lisonbee moved to report a favorable recommendation on 1st Substitute H.B. 131, as amended.

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

Yeas:

Rep. B. Greene
Rep. B. King
Rep. K. Lisonbee
Rep. M. McKell
Rep. S. Pulsipher
Rep. T. Quinn
Rep. M. Wheatley

Nays:

Abs:

Rep. K. Coleman
Rep. B. Cutler
Rep. K. Ivory
Rep. D. Pitcher
Rep. V. Snow

2. S.B. 66 Administrative Law Judge Amendments (*Dayton, M.*)

Sen. Margaret Dayton presented the bill with the assistance of Alan Matheson, Utah Department of Environmental Quality.

Mr. Steven Christiansen, Utah Manufacturers Association and Utah Mining Association, spoke in favor of the bill.

MOTION: Rep. Quinn moved to report a favorable recommendation on S.B. 66. The motion passed with a vote of 9-0-3.

Yeas:

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

Nays:

Abs:

Rep. B. Cutler
Rep. K. Ivory
Rep. V. Snow

MOTION: Rep. Quinn moved to place S.B. 66 on the Consent Calendar.

The motion passed with a vote of 9-0-3.

Yeas:

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

Nays:

Abs:

Rep. B. Cutler
Rep. K. Ivory
Rep. V. Snow

3. 1st Sub. S.B. 134 Indigent Defense Commission Amendments (*Weiler, T.*)

Sen. Todd Weiler presented the bill with the assistance of Joanna Landau, Director, Indigent Defense Commission.

Mr. Adam Trupp, Utah Association of Counties, spoke in favor of the bill.

Mr. Rick Schwermer, Assistant State Court Administrator, spoke in favor of the bill.

MOTION: Rep. Pitcher moved to report a favorable recommendation on 1st Substitute S.B. 134.

The motion passed with a vote of 9-0-3.

Yeas:

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

Nays:

Abs:

Rep. B. Cutler
Rep. K. Ivory
Rep. V. Snow

4. S.B. 169 Judiciary Amendments (*Hillyard, L.*)

Sen. Lyle W. Hillyard presented the bill with the assistance of Mr. Rick Schwermer, Assistant State Court Administrator.

MOTION: Rep. King moved to report a favorable recommendation on S.B. 169. The motion passed with a vote of 10-0-2.

Yeas:

Rep. K. Coleman
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. M. Wheatley

Nays:

Abs:

Rep. B. Cutler
Rep. V. Snow

MOTION: Rep. Pitcher moved to place S.B. 169 on the Consent Calendar. The motion passed with a vote of 10-0-2.

Yeas:

Rep. K. Coleman
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. M. Wheatley

Nays:

Abs:

Rep. B. Cutler
Rep. V. Snow

5. 1st Sub. S.B. 58 Uniform Voidable Transactions Act (*Hillyard, L.*)

Sen. Lyle W. Hillyard presented the bill.

MOTION: Rep. King moved to report a favorable recommendation on 1st Substitute S.B. 58.

The motion passed with a vote of 8-0-4.

Yeas:

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

Nays:

Abs:

Rep. B. Cutler
Rep. B. Greene
Rep. V. Snow
Rep. M. Wheatley

6. 1st Sub. S.B. 76 Post-conviction DNA Testing Amendments (*Hillyard, L.*)

Sen. Lyle W. Hillyard presented the bill.

MOTION: Rep. Pitcher moved to report a favorable recommendation on 1st Substitute S.B. 76.

The motion passed with a vote of 9-0-3.

Yeas:

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

Nays:

Abs:

Rep. B. Cutler
Rep. V. Snow
Rep. M. Wheatley

7. S.B. 87 Civil Asset Forfeiture Revisions (*Thatcher, D.*)

Sen. Daniel W. Thatcher presented the bill.

Mr. Howard Headlee, Utah Bankers Association, spoke to the bill.

Ms. Marina Lowe, Legislative and Policy Counsel, ACLU of Utah, spoke in favor of the bill.

Ms. Jami Brackin, Deputy Summit County Attorney and Statewide Association of Prosecutors, spoke in favor of the bill.

Mr. Connor Boyack, Libertas Institute, spoke in opposition to the bill.

Mr. Will Carlson, Salt Lake County and Statewide Association of Prosecutors, spoke in favor of the bill.

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

MOTION: Rep. Pitcher moved to replace S.B. 87 with 4th Substitute S.B. 87. 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

MOTION: Rep. Greene moved to amend 4th Substitute S.B. 87 with Amendment #2.

1. Page 3, Lines 81 through 84:

81 (10) (a) "Interest holder" means a secured party as defined in Section 70A-9a-102,
a party with a right-of-offset, a
82 mortgagee, lien creditor, or the beneficiary of a security interest or encumbrance
pertaining to
83 an interest in property, whose interest would be perfected against a good faith purchaser
for

84 value.

2. Page 12, Lines 345 through 359:

345 (8) (a) { ~~An innocent owner~~ A claimant may recover possession of
346 seized property that is subject to
347 forfeiture by contacting the seizing agency or prosecuting attorney within 30 days of the
348 seizure
349 and providing to the seizing agency or prosecuting attorney:
350 (i) evidence that establishes proof of ownership; and
351 (ii) a brief description of the date, time, and place that the { ~~innocent owner~~
352 -} claimant mislaid or
353 relinquished possession of the seized property.
354 (b) A seizing agency or prosecuting attorney who receives a claim from a { ~~potentially~~
355 innocent owner } claimant utilizing the procedure in Subsection (8)(a) shall
356 issue a written response to
357 that claim within 30 days of receipt, indicating whether the claim has been granted,
358 denied on
359 the merits, or denied for failure to provide the information required by statute subject to
the
following:
(i) if the claim is denied for failure to provide the information required by statute, the
{ ~~potentially innocent owner~~ claimant has 15 days from the date of denial
to submit additional information
before the prosecuting attorney may commence a civil action seeking to forfeit the
property;
and

The motion passed with a vote of 12-0-0.

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

MOTION: Rep. Greene moved to amend 4th Substitute S.B. 87 with Amendment #1.

1. *Page 12, Lines 345 through 347:*

345 (8) (a) An innocent owner may recover possession of seized property that is subject
 to
346 forfeiture by contacting the seizing agency or prosecuting attorney **prior to the**
 commencement of a civil asset forfeiture proceeding, or within 30 days of the
 seizure **, whichever is longer,**
347 and providing to the seizing agency or prosecuting attorney:

2. *Page 13, Lines 372 through 373:*

372 (e) All communications between **or evidence provided to** the parties in
 connection with a claim submitted
373 pursuant to Subsection (8) are subject to the Utah Rules of Evidence, Rules 408 and 410.

SUBSTITUTE MOTION: Rep. Lisonbee moved to amend 4th Substitute S.B. 87
Amendment #3.

1. *Page 12, Lines 345 through 347:*

345 (8) (a) { ~~An innocent owner~~ A claimant may recover possession of
seized property that is subject to
346 forfeiture by contacting the seizing agency or prosecuting attorney prior to the
commencement of a civil asset forfeiture proceeding, or within 30 days of the
seizure , whichever is longer,
347 and providing to the seizing agency or prosecuting attorney:

2. *Page 13, Lines 372 through 373:*

372 (e) All communications between or evidence provided to the parties in
connection with a claim submitted
373 pursuant to Subsection (8) are subject to the Utah Rules of Evidence, Rules 408 and 410.

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. S. Pulsipher
Rep. T. Quinn
Rep. V. Snow
Rep. M. Wheatley

Rep. D. Pitcher

MOTION: Rep. Ivory moved to report a favorable recommendation on 4th Substitute S.B. 87, as amended.

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. S. Pulsipher
Rep. T. Quinn
Rep. V. Snow
Rep. M. Wheatley

Rep. D. Pitcher

8. 1st Sub. S.B. 71 Criminal Accounts Receivable Amendments (*Thatcher, D.*)

Sen. Daniel W. Thatcher presented the bill.

Ms. Jennifer Valencia, Director of Sentencing Commission, spoke in favor of the bill.

MOTION: Rep. Greene moved to report a favorable recommendation on 1st Substitute S.B. 71.

The motion passed with a vote of 12-0-0.

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

9. 1st Sub. S.B. 89 Adoption Agency Amendments (*Escamilla (Robles), L.*)

Sen. Luz Escamilla presented the bill.

MOTION: Rep. Snow moved to report a favorable recommendation on 1st Substitute S.B. 89.

The motion passed with a vote of 12-0-0.

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

MOTION: Rep. Snow moved to approve the minutes of the February 28, 2017, meeting. The motion passed with a vote of 12-0-0.

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

MOTION: Rep. King moved to adjourn.
The motion passed with a vote of 12-0-0.

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

Chair McKell adjourned the meeting at 6:31 p.m.

Rep. Michael K. McKell, Chair