



MINUTES

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

APPROPRIATIONS SUBCOMMITTEE

Tuesday, October 15, 2019 | 1:15 p.m. | 25 House Building

Members Present:

Sen. Jacob L. Anderegg, Senate Chair
Rep. Eric K. Hutchings, House Chair
Rep. Joel Ferry, House Vice Chair
Sen. Curtis S. Bramble
Sen. David G. Buxton
Sen. Lincoln Fillmore
Sen. Derek L. Kitchen
Sen. Daniel McCay
Rep. Cheryl K. Acton
Rep. Kyle R. Andersen
Rep. James A. Dunnigan

Rep. Brian S. King
Rep. Carol Spackman Moss
Rep. Angela Romero

Members Absent:

Sen. Wayne A. Harper
Rep. Marc K. Roberts

Staff Present:

Ms. Linda Service, Session Secretary
Mr. Gary R. Syphus, Finance Manager
Mr. Alexander R. Wilson, Financial Analyst

Note: A copy of related materials and an audio recording of the meeting can be found at www.le.utah.gov.

1 . 1:15 pm: Call to Order/Approval of Minutes

House Chair Hutchings called the meeting to order at 1:18 p.m. followed by instructions to committee members.

2 . 1:15 pm: Internet Safety Funding

Mr. Dan Burton, Utah Attorney General's Office, provided an update of the committee's support for the internet safety programs that have been conducted for the past few years.

Ms. Carrie Rogers-Whitehead, CEO and Founder, Digital Respons-Ability, reported on the purpose, process, and organizations committed to participate in the effort to enhance online safety and privacy for youth.

Rep. Spackman Moss raised a concern related to sexual content posted by young people.

Mr. Burton and Ms. Rogers-Whitehead, responded to a question from Sen. Anderegg asking for clarification on the roll-out and implementation of the internet safety program in the schools and at home.

Rep. Romero noted that organizations go through an extreme vetting process and those working with children in schools go through child sex abuse preventive education.

3 . 1:25 pm: Accountable Budget Process (Items from previous Meeting)

Through his presentation Mr. Alex Wilson, Financial Analyst, Office of Legislative Fiscal Analyst (LFA), focused on victim services with the intent to scrutinize the Victims of Crime Act (VOCA) and presented a recommendation to the committee.

[3aii-VOCA Graphs](#)

[3ai-VOCA Presentation](#)

Sen. Anderegg commented that if there is a downturn in the economy it is a likely possibility that organizations will be making requests from the State Legislature for funding. A discussion with committee members followed. Mr. Gary Scheller, Utah Office of Victim Crime, offered clarification for the committee.

Mr. Scheller also responded to a question from Chair Hutchings related to the handling a reduction in funding.

MOTION: Rep. Dunnigan moved that the Office of Victims of Crime report on contingency plans during the 2020 General Session should federal funds from the Victims of Crime Act Grant significantly decrease. The motion passed with a vote of 11 - 0 - 5.

Yeas-11

Rep. C. Acton
Rep. K. Andersen
Sen. D. Buxton
Rep. J. Dunnigan
Rep. J. Ferry
Sen. L. Fillmore
Rep. E. Hutchings
Rep. B. King
Sen. D. Kitchen
Sen. D. McCay
Rep. C. Moss

Nays-0

Absent-5

Sen. J. Anderegg
Sen. C. Bramble
Sen. W. Harper
Rep. M. Roberts
Rep. A. Romero

Mr. Wilson continued his presentation discussing the Criminal Surcharge Account Trends/Review: fines and fees issued to individuals that enter within the criminal justice system. A recommendation was suggested.

[3bi-Surcharge Presentation](#)

[3bii-LRGC 2016 Surcharge Presentation](#)

Mr. Walsh, Deputy Director, Commission on Criminal and Juvenile Justice, responded to Sen. Buxton's request for clarification of accountability with respect to surcharge funds and program effectiveness.

MOTION: Sen. Buxton moved that during the 2020 General Legislative Session the Executive Offices and Criminal Justice Subcommittee prioritize the programs funded through the Criminal Surcharge and recommend defunding or finding General Fund for the low priority items. The motion passed with a vote of 12 - 0 - 4.

Yeas-12

Rep. C. Acton
Sen. J. Anderegg
Rep. K. Andersen
Sen. D. Buxton
Rep. J. Dunnigan
Rep. J. Ferry
Sen. L. Fillmore
Rep. E. Hutchings
Rep. B. King
Sen. D. Kitchen
Sen. D. McCay
Rep. A. Romero

Nays-0

Absent-4

Sen. C. Bramble
Sen. W. Harper
Rep. C. Moss
Rep. M. Roberts

Mr. Gary Syphus, Finance Manager, LFA, discussed Other Adjudicated Related Items. He highlighted three items from the "LFA Recommendations/EOCJ Proposed Motion Sheet, 10.15.2019:" #5, Various Agencies (Fiscal Note, Building Block Follow-up Report, and Other Reductions,) #6, Courts (Follow-up Report, Related Research,) #10, Corrections (Fiscal Note, Building Block Follow-up Report,) and #13, Board of Pardons and Parole (Electronic Records System Intent Language.)

[3ci-Memo - Accountable Budget Process - Budget Item Follow-up](#)

MOTION: Sen. Anderegg moved to adopt recommendations #5, Various Agencies; #6, Courts; and #13, Board of Pardons and Parole as printed on the "LFA Recommendations/EOCJ Proposed Motion Sheet 10.15.2019." The motion passed with a vote of 13 - 0 - 3.

Yeas-13

Rep. C. Acton
Sen. J. Anderegg
Rep. K. Andersen
Sen. D. Buxton
Rep. J. Dunnigan
Rep. J. Ferry
Sen. L. Fillmore
Rep. E. Hutchings
Rep. B. King
Sen. D. Kitchen
Sen. D. McCay
Rep. C. Moss
Rep. A. Romero

Nays-0

Absent-3

Sen. C. Bramble
Sen. W. Harper
Rep. M. Roberts

MOTION: Sen. Anderegg moved to approve Item #10, Corrections, as listed on the "LFA Recommendations/EOCJ Proposed Motion Sheet 10.15.2019." The motion passed with a vote of 13 - 0 - 3.

Yeas-13

Rep. C. Acton
Sen. J. Anderegg
Rep. K. Andersen
Sen. D. Buxton
Rep. J. Dunnigan
Rep. J. Ferry
Sen. L. Fillmore
Rep. E. Hutchings
Rep. B. King
Sen. D. Kitchen
Sen. D. McCay
Rep. C. Moss
Rep. A. Romero

Nays-0

Absent-3

Sen. C. Bramble
Sen. W. Harper
Rep. M. Roberts

3. 2:00 p.m. Indigent Defense Commission Review

Mr. Wilson presented the LFA review for the Indigent Defense Commission and addressed recommendations.

[3di-Indigent Defense Presentation](#)

[3dii-Indigent Defense Local Excuses](#)

[3diii-IDC Grant Program Limitations](#)

[3div-Caseload Standards Survey](#)

[3dv-Council at First Appearance](#)

[3dvi-IDC State Structure Survey](#)

Ms. Joanna Landau, Director, Utah Indigent Defense Commission (IDC), introduced her colleagues and responded to a question from Chair Hutchings related to IDC process.

Mr. Wilson continued his presentation.

Rep. King asked for clarification of a graph titled "Disposition on Appeals by County," specifically the exclusion of some counties and the question of accuracy. He also requested a response from Ms. Landau as to what is the result of the graph. Ms Landau noted that the graph shows there is and remains a problem with appellate indigent defense representation.

Ms. Landau responded to a question from Rep. Acton related to the possibility of indigent defense becoming a more costly proposition with the passage of S.B. 32 requiring juvenile representation.

Mr. Wilson continued his presentation addressing District Court Level Indigent Appointment Rate with clarification from Ms. Landau and Chair Hutchings.

Mr. Wilson continued his presentation with Rep. King voicing a concern suggesting the graphs show indigent appointment rates reflect a selection bias.

Rep. Ferry asked if it would be possible, to send out a survey and indicate that a response is required; A discussion followed with Ms. Landau responding to questions from committee members. Topics include: improving data collection from IDC and caseload standards?

Ms. Pam Vickrey, Utah Juvenile Defender Attorneys, suggested that the first step to good data is working caseloads.

Chair Hutchings noted the importance of standardization of data collection and suggested the defense caseload will be counted and reported by a standard developed by IDC.

Rep. King further noted that information collection should come from the courts, prosecutors, and offices that are assigned indigent defense cases. He suggested a mandatory reporting requirement.

Mr. Shawn Milne, Tooele County IDC Commissioner, expressed agreement with the importance of data collection and standardization of reporting.

Sen. Anderegg addressed the importance of having in statute mandating data reporting. However, there are logistical collection issues and additional costs with more data.

Rep. Romero affirmed her agreement with other members of the committee and suggested a matrix be established so that the right data is collected. Ms. Landau affirmed the suggestion that collecting the data will be difficult but necessary.

Sen. McCay noted it is difficult to measure constitutional mandates and how to perform them in the most efficient manner. He expressed his desire that the committee look to keeping a balance between constitutional mandate and due process.

Mr. Wilson clarified his stance on the data he collected.

4 . 2:25 pm: Accountable Budget Process (New Materials)

Mr. Syphus addressed the Juvenile and District Courts Structure in his LFA presentation and addressed recommendations #9a and #9b found in the "LFA Recommendations/EOCJ Proposed Motion Sheet 10.15.2019."

[4a-Court Structure Presentation](#)

[4biii-Courts Performance Report](#)

Judge Mary Noonan, State Court Administrator, Utah State Courts, reported that the Judicial Council will focus on realignment and reallocation of current resources to meet the need in the District Court if there is available capacity in the Juvenile Court.

Sen. Buxton asked if the reason for the Juvenile Court justices not being needed is because of the Justice Reinvestment Initiative (JRI.) Judge Noonan reported that the weighted caseload reports reflect a substantial decrease in filings in the Juvenile Court as a result of Juvenile Justice Reform. A discussion followed, including suggestions from Chair Hutchings, explanations from Mr. Brett Peterson, Director, Juvenile Justice Services, and clarification from Rep. Andersen.

MOTION: Rep. Dunnigan moved to reallocate court resources to better reflect judicial workload, including reducing juvenile court judges and reallocating those positions to district courts that need judicial resources. The motion passed with a vote of 10 - 0 - 6.

Yeas-10

Rep. C. Acton
Rep. K. Andersen
Sen. D. Buxton
Rep. J. Dunnigan
Rep. J. Ferry
Sen. L. Fillmore
Rep. E. Hutchings
Sen. D. Kitchen
Rep. C. Moss
Rep. A. Romero

Nays-0

Absent-6

Sen. J. Anderegg
Sen. C. Bramble
Sen. W. Harper
Rep. B. King
Sen. D. McCay
Rep. M. Roberts

5 . 3:00 pm: Salt Lake County Jail Bed Housing Program

Chair Hutchings commented that the Chairs have agreed to meet with Salt Lake City and Public Safety in an effort to formulate a strategy going forward for the Rio Grande area.

Mr. Syphus provided a recommendation that is found on the "LFA Recommendations/ EOCJ Proposed Motion Sheet 10.15.2019," #12. A discussion followed with Rep. Dunnigan, Chair Hutchings, and Sen. Buxton.

Chair Hutchings officially invited committee members to attend the meeting with Salt Lake City and Public Safety.

Getting back to the motion, Rep. Ferry clarified that the motion is specifically related to the \$2,420,000 for the Oxbow Jail and not the broader discussion of the Rio Grande. Other committee members voiced their agreement to hold a more inclusive meeting.

6 . 3:30 pm: Voting/Final Motions/Subcommittee Discussion

Voting on motion to prepare a Base Budget Bill.

MOTION: Under Joint Rule 3-2-101 and 3-2-402, Rep. Ferry moved to authorize legislative staff to prepare and number the base budget bill for the Executive Offices and Criminal Justice Appropriations Subcommittee, to be presented to the Executive Appropriations Committee no later than the third Wednesday in December, in preparation for the 2020 General Session. Staff shall include in this bill: (1) The accountable process budget changes adopted today; (2) Ongoing General, Education, and Uniform School Fund appropriations defined in the current year's appropriations acts; (3) Federal Fund, Dedicated Credit, Restricted fund and account amounts that are the lesser of current year ongoing appropriations or agency budget requests; and (4) Adjustments to nonlapsing balances, transfers, and other dependent amounts as calculated.

In consultation with the Co-Chairs of the Executive Offices and Criminal Justice Appropriations Subcommittee or the Co-Chairs of the Executive Appropriations Committee, staff may make any technical changes necessary, including balancing between the General Fund and Education Fund, in order to balance the overall budget. The motion passed with a vote of 11 - 0 - 5.

Yeas-11

Rep. C. Acton
Rep. K. Andersen
Sen. D. Buxton
Rep. J. Dunnigan
Rep. J. Ferry
Sen. L. Fillmore
Rep. E. Hutchings
Sen. D. Kitchen
Sen. D. McCay
Rep. C. Moss
Rep. A. Romero

Nays-0

Absent-5

Sen. J. Anderegg
Sen. C. Bramble
Sen. W. Harper
Rep. B. King
Rep. M. Roberts

7 . 3:10 pm: Follow-up on Intent Language

Mr. Jim Hudspeth, Deputy Director, Utah Department of Corrections (UDC), reviewed a slide presentation on county jail treatment. Chair Hutchings noted that the committee will be looking into jail contracting and reimbursement rates. Mr. Hudspeth continued his presentation commenting on substance abuse disorder treatment and sex offender treatment .

Chair Hutchings reported that the amount of treatment now occurring upon release has increased dramatically.

Mr. Hudspeth responded to questions from Rep. Andersen and Chair Hutchings regarding daily rates and tracking participants in treatment programs. He then continued his presentation, including vocational education.

Rep. Dunnigan asked if there is a backlog due to a lack of treatment beds for sex offender inmates requiring them to be incarcerated longer than otherwise would be the case if they were able to get timely treatment. Mr. Hudspeth reported that that is not the case.

Dr. Victor Kersey, Director, Institutional Programming UDC, responded to Rep. Dunnigan's question stating that no one is on a waiting list to get into a pre-treatment program. Data is being collected to determine treatment effectiveness. A discussion followed on the issue of lack of housing.

Col. Michael Rapich, Utah Department of Public Safety, Utah Highway Patrol, addressed the Aero Bureau Status Report and drone usage during search and rescue. He responded to a question from Rep. Andersen related to demand on the Aero Bureau helicopters.

Chair Hutchings noted the increase and improvement in technology and how that might be used in the future with search and rescue.

MOTION: Rep. Andersen moved to adjourn. The motion passed with a vote of 10 - 0 - 6.

Yeas-10

Rep. C. Acton
Rep. K. Andersen
Sen. D. Buxton
Rep. J. Dunnigan
Rep. J. Ferry
Sen. L. Fillmore
Rep. E. Hutchings
Rep. B. King
Sen. D. McCay
Rep. A. Romero

Nays-0

Absent-6

Sen. J. Anderegg
Sen. C. Bramble
Sen. W. Harper
Sen. D. Kitchen
Rep. C. Moss
Rep. M. Roberts

Chair Hutchings adjourned the meeting at 4:45 p.m.