



MINUTES

SENATE JUDICIARY, LAW ENFORCEMENT, AND CRIMINAL JUSTICE STANDING COMMITTEE

LEGISLATURE

Tuesday, January 25, 2022 | 2:00 p.m. | 210 Senate Building

Members Present:

Sen. Todd D. Weiler, Chair
Sen. Kirk A. Cullimore
Sen. Luz Escamilla
Sen. Michael S. Kennedy
Sen. Derek L. Kitchen
Sen. Daniel W. Thatcher

Members Absent:

Sen. Jerry W. Stevenson

Staff Present:

Jonathan Adams, Policy Analyst
Shandra Mutchie, Committee Secretary

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

Chair Weiler called the meeting to order at 2:26 p.m.

1. H.B. 18 Intimate Image Distribution Amendments (Collard, C.)

Clare Collard presented the bill presented the bill with the assistance of Mr Will Carlson, Deputy District Attorney, Salt Lake County District Attorney's Office.

Ms. Anna Thomas, Voices for Utah's Children, spoke in favor of the bill.

Kaylee Richards, Salt Lake Peer Court Director, spoke in favor of the bill.

MOTION: Sen. Kitchen moved to pass H.B. 18 out favorably. The motion passed with a vote of 5 - 0 - 2.

Yeas - 5

Sen. L. Escamilla
Sen. M. Kennedy
Sen. D. Kitchen
Sen. D. Thatcher
Sen. T. Weiler

Nays - 0

Absent - 2

Sen. K. Cullimore
Sen. J. Stevenson

Sen. Kitchen assumed the chair.

2. S.B. 56 Criminal Stalking Exemption Amendments (Weiler, T.)

Sen. Weiler presented the bill.

Mr. Sean Hollinger, licensed private investigative agent, licensed attorney, spoke in favor of the bill.

Nate Mutter, Co-Chair, Legislative Liaison Office for Law Enforcement, Attorney General's Office, spoke in opposition to the bill.

Levy Woodruff, resident, spoke in opposition to the bill.

Rae Duckworth, Vice President, Black Lives Matter Utah, spoke in opposition to the bill.

Ken Wallentine, Utah Chiefs of Police Association, spoke in opposition to the bill.

MOTION: Sen. Weiler moved to replace S.B. 56 with 1st Substitute S.B. 56. The motion passed with a vote of 5 - 0 - 2.

Yeas - 5

Sen. L. Escamilla
Sen. M. Kennedy
Sen. D. Kitchen
Sen. D. Thatcher
Sen. T. Weiler

Nays - 0

Absent - 2

Sen. K. Cullimore
Sen. J. Stevenson

MOTION: Sen. Weiler moved to pass 1st Substitute S.B. 56 out favorably. The motion passed with a vote of 5 - 0 - 2.

Yeas - 5

Sen. L. Escamilla
Sen. M. Kennedy
Sen. D. Kitchen
Sen. D. Thatcher
Sen. T. Weiler

Nays - 0

Absent - 2

Sen. K. Cullimore
Sen. J. Stevenson

3. S.B. 98 Judiciary Amendments (Weiler, T.)

Sen. Weiler presented the bill.

MOTION: Sen. Weiler moved to replace S.B. 98 with 1st Substitute S.B. 98. The motion passed with a vote of 5 - 0 - 2.

Yeas - 5

Sen. L. Escamilla
Sen. M. Kennedy
Sen. D. Kitchen
Sen. D. Thatcher
Sen. T. Weiler

Nays - 0

Absent - 2

Sen. K. Cullimore
Sen. J. Stevenson

Michael Dreschel, Assistant State Court Administrator, spoke to the bill.

MOTION: Sen. Kennedy moved to pass 1st Substitute S.B. 98 out favorably. The motion passed with a vote of 4 - 0 - 3.

Yeas - 4

Sen. M. Kennedy
Sen. D. Kitchen
Sen. D. Thatcher
Sen. T. Weiler

Nays - 0

Absent - 3

Sen. K. Cullimore
Sen. L. Escamilla
Sen. J. Stevenson

4. S.B. 108 Indigent Defense Amendments (Weiler, T.)

Sen. Weiler presented the bill with the assistance of Matt Barraza, Indigent Defense Commission.

MOTION: Sen. Weiler moved to amend S.B. 108 with Amendment #1. The motion passed with a vote of 4 - 0 - 3.

Amendment 1
S.B. 108

1. Page 4, Lines 109 through 111:

109 (1) (a) A court shall appoint an indigent defense service provider who is employed by
110 an indigent defense system or who has a contract with an indigent defense system to provide indigent
111 defense services for an individual over whom the court has jurisdiction if:

Yeas - 4

Sen. M. Kennedy
Sen. D. Kitchen
Sen. D. Thatcher
Sen. T. Weiler

Nays - 0

Absent - 3

Sen. K. Cullimore
Sen. L. Escamilla
Sen. J. Stevenson

MOTION: Sen. Weiler moved to pass S.B. 108 with amendment #1 out favorably. The motion passed with a vote of 4 - 0 - 3.

Yeas - 4

Sen. M. Kennedy
Sen. D. Kitchen
Sen. D. Thatcher
Sen. T. Weiler

Nays - 0

Absent - 3

Sen. K. Cullimore
Sen. L. Escamilla
Sen. J. Stevenson

5. S.B. 120 Juvenile Justice Amendments (*Weiler, T.*)

Sen. Weiler, presented the bill with the assistance of Ms. Pamela Vickery, Division Juvenile Justice.

Documents distributed - infographics in favor of bill about fees and fines for juveniles

[Infographic of fees in juvenile justice system](#)

Shantel Black, Utah Juvenile Defender Attorney, spoke in favor of the bill.

Kayley Richards, UEJJ Legislative Committee, Oversight Committee, spoke in favor of the bill.

Paul Wake, resident, spoke in opposition to the bill.

Angela Adams, Deputy County Attorney, Washington County Attorney's Office, spoke in opposition to the bill.

Stephen Starr, Juvenile Prosecutor, Weber County, spoke in opposition to the bill.

Lyla Mahmoud, Policy Council, ACW of Utah, spoke in favor of the bill.

Michael Dreschel, Assistant State Court Administrator, spoke to the bill.

Rae Duckworth, Vice President, Black Lives Matter Utah, spoke in favor of the bill.

Will Carlson, Deputy District Attorney, Salt Lake County District Attorney's Office, spoke in favor of the bill.

MOTION: Sen. Weiler moved to pass S.B. 120 out favorably. The motion passed with a vote of 4 - 0 - 3.

Yeas - 4

Sen. M. Kennedy
Sen. D. Kitchen
Sen. D. Thatcher
Sen. T. Weiler

Nays - 0

Absent - 3

Sen. K. Cullimore
Sen. L. Escamilla
Sen. J. Stevenson

6. S.B. 123 Criminal Code Recodification (*Mayne, K.*)

Sen. Weiler presented the bill.

MOTION: Chair Weiler moved to amend S.B. 123 with Amendment #1. The motion passed with a vote of 4 - 0 - 3.

Amendment 1
S.B. 123

1. Page 12, Lines 344 through 349:

344 (1) It is not a defense to the crime of child kidnapping, a violation of Section
345 76-5-301.1; rape of a child, a violation of Section 76-5-402.1; object rape of a child, a violation
346 of Section 76-5-402.3; sodomy on a child, a violation of Section 76-5-403.1; sexual abuse of a
347 child, a violation of Section [76-5-404.1] {76-5-404.3} 76-5-404.1; aggravated sexual abuse of a child, a
348 violation of Subsection {76-5-404.1(4)} 76-5-404.3; or an attempt to commit any of these offenses, that the
349 actor mistakenly believed the victim to be 14 years [of age] old or older at the time of the

2. Page 80, Lines 2453 through 2462:

2453 (2) The following are criminal homicide:
2454 (a) aggravated murder;
2455 (b) murder;
2456 (c) manslaughter;
2457 (d) child abuse homicide ;
2458 {(e) homicide};
2459 {(f)} (e) homicide by assault;
2460 {(g)} (f) negligent homicide; and
2461 {(h)} (g) automobile homicide.
2462 [~~(3)~~ A person] (3) Notwithstanding Subsection (2), an actor is not guilty of criminal

3. Page 87, Lines 2666 through 2670:

2666 (c) Notwithstanding Subsection (3)(a) or (3)(b), if the trier of fact finds the elements of
2667 aggravated murder, or alternatively, attempted aggravated murder, as described in this section,
2668 are proved beyond a reasonable doubt, and also finds {that introduced evidence in support of an} the
2669 affirmative defense described in this Subsection (4) is not disproven beyond a reasonable
2670 doubt, the court shall enter a judgment of conviction as follows:

4. Page 90, Lines 2762 through 2766:

2762 (c) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder,
2763 or alternatively, attempted murder, as described in this section are proved beyond a reasonable
2764 doubt, and also finds {that introduced evidence in support of an} the affirmative defense described in
2765 this Subsection (4) is not disproven beyond a reasonable doubt, the court shall enter a judgment
2766 of conviction as follows:

Yeas - 4

Sen. M. Kennedy
Sen. D. Kitchen
Sen. D. Thatcher
Sen. T. Weiler

Nays - 0

Absent - 3

Sen. K. Cullimore
Sen. L. Escamilla
Sen. J. Stevenson

Mr. Will Carlson, Deputy District Attorney, Salt Lake County District Attorney's Office, spoke in favor of the bill.

Mr. Steve Burton, Utah Association of Criminal Defense, spoke in favor of the bill.

MOTION: Sen. Weiler moved to pass S.B. 123 with amendment #1 out favorably. The motion passed with a vote of 4 - 0 - 3.

Yeas - 4

Sen. M. Kennedy
Sen. D. Kitchen
Sen. D. Thatcher
Sen. T. Weiler

Nays - 0

Absent - 3

Sen. K. Cullimore
Sen. L. Escamilla
Sen. J. Stevenson

7. S.B. 124 Criminal Code Recodification Cross References (Mayne, K.)

Sen. Weiler presented the bill.

MOTION: Sen. Weiler moved to pass S.B. 124 out favorably. The motion passed with a vote of 4 - 0 - 3.

Yeas - 4

Sen. M. Kennedy
Sen. D. Kitchen
Sen. D. Thatcher
Sen. T. Weiler

Nays - 0

Absent - 3

Sen. K. Cullimore
Sen. L. Escamilla
Sen. J. Stevenson

8. S.J.R. 4 Joint Resolution Supporting Qualified Immunity (Harper, W.)

Sen. Weiler resumed the chair.

Sen. Wayne A. Harper presented the bill.

Rae Duckworth, (as resident), spoke in opposition to the bill.

Jess Anderson, Commissioner of Public Safety, spoke in favor of the bill.

Ilana Raskind, resident, spoke in opposition to the bill.

Mark Moffat, Criminal Defense Lawyer, spoke in opposition to the bill.

Levy Woodruff, resident, spoke in opposition to the bill.

Nate Mutter, Assistant Chief of Investigation, Co-Chair Utah Law Enforcement Committee, spoke in favor of the bill.

Ken Wallentine, Utah Chiefs of Police Association, spoke in favor of the bill.

Chad Bennion, Executive Director Correction's Lodge, spoke in favor of the bill.

Rae Duckworth, (as resident), spoke in opposition to the bill.

Molly Davis, Libertas Institute, spoke in opposition to the bill.

MOTION: Sen. Kennedy moved to adjourn. The motion failed with a vote of 2 - 2 - 3.

Yeas - 2

Sen. M. Kennedy
Sen. D. Kitchen

Nays - 2

Sen. K. Cullimore
Sen. T. Weiler

Absent - 3

Sen. L. Escamilla
Sen. J. Stevenson
Sen. D. Thatcher

MOTION: Sen. Cullimore moved to hold agenda for S.J.R. 4.

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



Yeas - 4

Sen. K. Cullimore
Sen. M. Kennedy
Sen. D. Kitchen
Sen. T. Weiler

Nays - 0

Absent - 3

Sen. L. Escamilla
Sen. J. Stevenson
Sen. D. Thatcher

Chair Weiler adjourned the meeting at 4:11 p.m.