

**MINUTES OF THE  
HOUSE JUDICIARY STANDING COMMITTEE MEETING  
Room 223 - State Capitol Building  
February 24, 2004**

**MEMBERS PRESENT:** Rep. Ben C. Ferry, Chair  
Rep. J. Stuart Adams, Vice Chair  
Rep. Chad E. Bennion  
Rep. Katherine M. Bryson  
Rep. Greg J. Curtis  
Rep. Scott Daniels  
Rep. Neal B. Hendrickson  
Rep. Eric K. Hutchings  
Rep. M. Susan Lawrence  
Rep. Dana C. Love  
Rep. Rosalind J. McGee  
Rep. J. Morgan Philpot  
Rep. Mike Thompson

**MEMBERS ABSENT:** None

**STAFF:** Jerry D. Howe, Policy Analyst  
Cherri White, Committee Secretary

**NOTE:** A list of visitors and handouts are filed with the committee minutes.

Representative Ferry called the meeting to order at 4:57 p.m. and called for a motion to approve the minutes of February 19, and February 23, 2004.

**MOTION:** Representative Hendrickson moved to approve the minutes. The motion passed unanimously with Representatives Bennion, Curtis, Hutchings, Philpot, and Thompson absent for the vote.

**S.B. 131 Uniform Principal and Income Act (*Sen. L. Hillyard*)**

The sponsor introduced the bill and explained its intent.

**MOTION:** Representative Bryson moved to pass the bill out favorably. The motion passed unanimously with Representatives Bennion, Curtis, Philpot, and Thompson absent for the vote.

**1st Sub. S.B. 179 Expedited Appeals in Child Welfare Cases (*Sen. L. Hillyard*)**

The sponsor introduced the bill and explained its intent.

**MOTION:** Representative Lawrence moved to pass 1st Sub. S.B. 179. The motion passed unanimously with Representatives Bennion, Curtis, Thompson, and Philpot absent for the vote.

**H.B. 151      Protective Custody of Abused, Neglected, or Dependent Children (*Rep. E. Hutchings*)**

**MOTION:** Representative Hutchings moved to delete H.B. 151 and replace it with 1st Substitute H. B. 151. The motion passed unanimously with Representatives Bennion, Curtis, and Thompson absent for the vote.

The sponsor then proceeded to introduce the substitute bill and explain its intent.

Gayle Ruzicka, Utah Eagle Forum, spoke in favor of the bill.

Adam Troop, Division of Child and Family Services, and Rick Berry, Concerned Citizen spoke against the bill.

Ken Wallentine, Administrative Counsel, Department of Public Safety addressed questions from the committee.

**MOTION:** Representative Love moved to proceed to the next item on the agenda.

**SUBSTITUTE**

**MOTION:** Representative Hutchings moved to send the bill to interim study. The substitute motion passed unanimously with Representative Curtis absent for the vote.

Representative Ferry announced that all persons who testify regarding 2nd Sub. S.B. 175 will be placed under oath. Jerry Howe, Legislative Research and General Counsel, administered the oath.

**2nd Sub. S.B. 175      Protection of Private Lawfully Obtained Property (*Sen. D. C. Buttars*)**

The sponsor introduced the bill and explained its intent. Kirk Torgensen, Attorney General's Office, and Representative Urquhart assisted in the presentation of the bill.

Speaking in favor of the bill:

Kelly Atkinson, Fraternal Order of Police  
John Greiner, Concerned Citizen  
Amy DeSpain, Salt Lake City Police Department  
JoAnn Zaharias, Utah Council on Victims  
Rhonda Rose, Utah State PTA

Speaking against the bill:

Andrew McCulloch, Board of Directors, Civil Liberties Union  
Arnold Gaunt, Forfeiture Endangers Americans Rights

David Hansen, Concerned Citizen

Daniel Witte, Beneficial Life spoke to the bill.

**MOTION:** Representative Love moved to amend:

1. *Page 9, Lines 264 through 274:*

264 (2) The prosecuting attorney [~~shall have~~] has the burden of establishing by clear and  
265 convincing evidence that an [~~individual is not an innocent~~] owner[-] or interest holder:  
266 [~~(3) With respect to an ownership interest in existence at the time the conduct~~  
267 ~~subjecting the property to seizure took place, the term "innocent owner" means an owner~~  
~~who:]~~  
268 [~~(a) did not have actual knowledge of the conduct subjecting the property to seizure;~~  
269 ~~or]~~  
270 [~~(b) upon learning of the conduct subjecting the property to seizure, took reasonable~~  
271 ~~steps to prohibit such use of the property.]~~  
272 (a) is criminally responsible for the conduct giving rise to the forfeiture;  
273 (b) knew of [~~or could reasonably have been expected to know of~~] the  
conduct giving rise  
274 to the forfeiture, and allowed the property to be used in furtherance of the conduct;

The motion passed unanimously with Representative Bryson absent for the vote.

**MOTION:** Representative Philpot moved to send the bill to interim study.

**SUBSTITUTE**

**MOTION:** Representative Hutchings moved to pass 2nd Substitute S.B. 175 out favorably as amended. The motion passed 10-2-1 with Representatives Philpot and Thompson voting in opposition to the motion and Representative Bryson absent for the vote.

**MOTION:** Representative Bennion moved to adjourn. The motion passed. The meeting adjourned at 7:53 P.M.