

**MINUTES OF THE  
SENATE JUDICIARY, LAW ENFORCEMENT AND CRIMINAL JUSTICE  
STANDING COMMITTEE  
FRIDAY, FEBRUARY 13, 2004  
Room 414, STATE CAPITOL BUILDING**

Members Present: Sen. Gregory Bell, Chair  
Sen. Patrice M. Arent  
Sen. D. Chris Buttars  
Sen. Mike Dmitrich  
Sen. James M. Evans  
Sen. David L. Gladwell  
Sen. Lyle W. Hillyard

Members Excused: Sen. L. Al Mansell

Staff Present: Jami Momberger, Policy Analyst  
Katrina Yarrington, Committee Secretary

Public Speakers Present: Richard McConkie, Ogden City  
Kirk Torgensen, Chief Deputy, Attorney General's Office  
Mark Shurtleff, Attorney General  
Richard Daynes, Attorney, Assistant U.S. Attorney  
Joe Ferguson, citizen  
Bert Smith, Utah Cattlemen's Association  
Mike Ashment, Commander, Narcotics Strike Force  
Slade C. Gurr, citizen  
Arnold Gaunt, Coordinator, FEAR  
Rhonda Rose, Utah PTA

A list of visitors and a copy of handouts are filed with the committee minutes.

Committee Chair Bell called the meeting to order at 8:07 a.m.

**1. Approval of minutes**

**MOTION:** Sen. Arent moved to approve the minutes from the February 10th, 2004.

The motion passed unanimously, with Sen. Dmitrich, Sen. Evans, Sen Gladwell, and Sen. Hillyard absent for the vote.

**2. S.B. 62 Stay of Execution Amendments (D. Thomas)**

Sen. Thomas introduced the bill assisted by Richard McConkie, Ogden City.

**MOTION:** Sen. Arent moved to pass S.B. 62 out with a favorable recommendation.

The motion passed unanimously, with Sen. Evans absent for the vote.

**3. S.B. 175 Protection of Private Lawfully Obtained Property (D.C. Buttars)**

Sen. Buttars introduced the bill assisted by Kirk Torgensen, Chief Deputy, Attorney General's Office.

**MOTION:** Sen. Buttars moved the following amendment:

1. *Page 1, Lines 16 through 17:*

- 16           ▶ creates ~~[[a special revenue fund known as the Crime Reduction Assistance Fund, to be managed by the]]~~ a restricted account for specified state forfeiture funds, and provides that funds in the account shall be appropriated to the  
17           Commission on Criminal and Juvenile Justice;

2. *Page 3, Line 78:*

(1) "Account" means the Criminal Forfeiture Account created in Section 24-1-8.

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*Renumber following sections.*

- 78           (1) "Agency" ~~[shall mean]~~ means any agency of municipal, county, or state

3. *Page 4, Line 90:*

- 90           ~~[[(5) "Fund" means the Crime Reduction Assistance Fund created in Section 24-1-17.]]~~

4. *Page 12, Line 339:*

- 339       Reduction Assistance Program under Section ~~[[24-1-18]]~~ 24-1-19 if the agency has not established or

5. *Page 16, Lines 481 through 484:*

- 481           (ii) shall be used only for those law enforcement purposes specified in ~~[[Section 482 24-1-18(8)]]~~ Subsection 24-1-19(8) ; and  
483           (iii) may not be used for those law enforcement purposes prohibited in ~~[[Section 484 24-1-18(9)]]~~ Subsection 24-1-19(9) .

6. Page 17, Line 507:

507 or law enforcement purposes authorized under Section ~~[[24-1-18]]~~ 24-1-19 , and  
only upon approval or

7. Page 18, Lines 545 through 548:

545 (5) The remaining forfeited property shall then be [[ transferred by the seizing  
agency to  
546 the state treasurer, to be deposited in the Crime Reduction Assistance Fund created  
in Section  
547 24-1-18 for award and distribution pursuant to the Crime Reduction Assistance  
Program  
548 created in Section 24-1-19.]] deposited in the Criminal Forfeiture Account  
created in section 24-1-18 .

8. Page 18, Lines 549 through 554:

549 (6) [[ (a) ]] All property and proceeds awarded to the state through forfeiture  
proceedings  
550 under this chapter shall be deposited in the Criminal Forfeiture Account created in  
Section 24-1-18 [[ held by the state treasurer until the Utah Commission on  
Criminal  
551 and Juvenile Justice approves awards and disbursements under the program. ]] .  
552 [[ (b) The property and proceeds held by the state treasurer shall be  
segregated from other  
553 property, equipment, or assets of the state and from any department, office, or  
agency of the  
554 state until awarded through the program. ]]

9. Page 19, Lines 556 through 567:

556 [[ 24-1-18. Crime Reduction Assistance Fund:  
557 — (1) (a) There is created a special revenue fund known as the Crime Reduction  
558 Assistance Fund for the purpose of providing funding for the Crime Reduction  
Assistance  
559 Program created by Section 24-1-19:  
560 — (b) Consistent with its duties and responsibilities under Section 63-25a-104, the  
Utah

- 561 Commission on Criminal and Juvenile Justice shall expend monies from the fund  
562 for the  
563 purposes under Section 24-1-19:  
564 (c) The Utah Commission on Criminal and Juvenile Justice may pay program  
565 administrative costs from the fund.  
566 (2) The fund consists of all monies deposited to the fund under Section 24-1-17.  
567 (3) (a) The fund shall earn interest.  
(b) All interest earned on fund monies shall be deposited into the fund. ]]  
24-1-18. Criminal Forfeiture Account.  
(1) (a) There is created within the General Fund a restricted account known as the  
"Criminal Forfeiture Account."  
(2) Proceeds from forfeited property and forfeited monies shall be deposited in this  
account.  
(3) Money in the account shall be appropriated to the Commission on Criminal and  
Juvenile Justice, for implementing the Crime Reduction Assistance Program under  
Section 24-1-19.

10. Page 21, Lines 619 through 621:

- 619 (9) Law enforcement purposes for which award monies may not be granted or used  
620 include:  
621 (a) payment of salaries , retirement benefits, or bonuses to any person;

The motion passed unanimously.

**MOTION:** Sen. Gladwell moved the following amendment:

1. Page 13, Lines 374 through 380:

- 374 (10) the motion for hardship release shall also be served upon the prosecuting  
attorney  
375 ~~[[and]]~~ or the seizing agency within ten days after filing the motion.  
376 ~~{3}~~ (11) The court shall render a decision on a motion ~~[or complaint]~~ for hardship  
377 filed under ~~[Subsection (2)]~~ this section not later than ~~[ten]~~ 20 days after the date of  
filing, or  
378 ten days after service upon the prosecuting attorney ~~[[and]]~~ or seizing agency,  
whichever is earlier.

379 unless [~~the ten-day~~] this period is extended by the [~~consent of the~~] parties or by the court  
for

380 good cause shown.

The following people spoke in support of the bill:

Mark Shurtleff, Attorney General

Richard Daynes, Assistant U.S. Attorney

Mike Ashment, Commander, Narcotics Strike Force

Slade C. Gurr, citizen

Rhonda Rose, Utah PTA

The following people spoke in opposition to the bill:

Joe Ferguson, citizen

Bert Smith, Utah Cattlemen's Association

Arnold Gaunt, Coordinator, FEAR

**MOTION:** Sen. Gladwell moved to adjourn.

Committee Chair Bell adjourned the meeting at 10:28 a.m.

Minutes recorded by Katrina Yarrington, Secretary

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Sen. Gregory S. Bell, Committee Chair