

**MINUTES OF THE
HOUSE JUDICIARY STANDING COMMITTEE MEETING
Room W010 - State Capitol Complex
February 4, 2005**

MEMBERS PRESENT: Rep. James A. Ferrin, Chair
Rep. Erik K. Hutchings, Vice Chair
Rep. Douglas C. Aagard
Rep. Glenn A. Donnelson
Rep. Ben C. Ferry
Rep. Lorie D. Fowlke
Rep. Ann W. Hardy
Rep. Neal B. Hendrickson
Rep. David L. Hogue
Rep. Susan Lawrence
Rep. Ross Romero
Rep. Scott L. Wyatt

MEMBERS ABSENT: Rep. Rosalind J. McGee

STAFF: Jerry D. Howe, Policy Analyst
Crystal Hermanson, Committee Secretary

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

Representative Hutchings called the meeting to order at 2:20 p.m.

MOTION: Representative Donnelson moved to approve the minutes of January 31, 2005 and February 2, 2005. The motion passed unanimously with Representatives Aagard, Ferry, Hendrickson, Hogue, Lawrence, McGee, Romero, and Ferrin.

MOTION: Representative Hogue moved to place H.B. 73 and H.J.R. 5 on the agenda for Thursday, February 10, 2005. The motion passed 6-1-6, with Representatives Donnelson, Hardy, Hogue, Lawrence, Wyatt, and Hutchings voting in favor of the motion, and Representative Fowlke voting against the motion. Representatives Aagard, Ferry, Hendrickson, McGee, Romero and Ferrin were absent for the vote.

H.B. 163 Garnishment Fees (*Rep. S. Mascaro*)

Representative Mascaro introduced the bill and explained its intent.

Burt Peterson, General Manager of Carter Distribution spoke for the bill.

MOTION: Representative Fowlke moved to amend as follows:

1. *Page 2, Lines 33 through 34:*

- 33 (3) An employer may deduct a processing fee of up to \$10 from an employee each
time
34 a payment is made to a creditor pursuant to a continuing garnishment {-} not to
exceed \$20.00 per month.

The motion passed 10-0-3, with Representatives Aagard, Donnelson, Ferry, Fowlke, Hardy, Hogue, Lawrence, Romero, Wyatt, and Hutchings voting in favor of the motion. Representatives Hendrickson, McGee, and Ferrin absent for the vote.

MOTION: Representative Fowlke moved to amend as follows:

1. *Page 2, Line 34:*

add This processing fee shall be included in the non-exempt amount subject to garnishment. after "not to exceed \$20.00 per month."

The motion passed 10-1-2, with Representatives Aagard, Donnelson, Ferry, Fowlke, Hardy, Hogue, Lawrence, Romero, Wyatt, and Hutchings voting in favor of the motion, and Representative Hendrickson voting against the motion. Representatives McGee and Ferrin absent for the vote.

MOTION: Representative Fowlke moved to pass the bill out favorably as amended. The motion passed 8-3-2, with Representatives Aagard, Fowlke, Hardy, Hogue, Lawrence, Romero, Wyatt, and Hutchings voting in favor of the motion, and Representative Donnelson, Ferry, and Hendrickson voting against the motion. Representatives McGee and Ferrin absent for the vote.

H.B. 235 Insurance Amendments (*Rep. S. Urquhart*)

MOTION: Representative Hogue moved to accept 1st Sub. H.B. 235. The motion passed unanimously 11-0-2, with Representatives McGee and Ferrin absent for the vote.

Representative Urquhart introduced the bill and explained its intent.

The following members of the public spoke for the bill:

Steven Johnson, Norbest Inc.
Jennifer Cannaday, Blue Cross Blue Shield
Steve Sullivan

MOTION: Representative Lawrence moved to amend 1st Sub. H.B. 235 as follows:

1. *Page 1, Lines 22 through 24:*

22 ▶ provides that if a plaintiff, as the moving party in a trial de novo, does not
 receive a
23 verdict that is at least \$5,000 or 20% or greater than the arbitration award {~~or~~
 \$5,000} , the
24 plaintiff is responsible for the nonmoving party's costs;

2. *Page 4, Lines 108 through 111:*

108 (11) (a) If the plaintiff, as the moving party in a trial de novo requested under
109 Subsection (9), does not obtain a verdict that is at least \$5,000 or 20% {~~or~~
 \$5,000} greater than the
110 arbitration award. {~~which is greater,~~} the plaintiff is responsible for all of the
 nonmoving party's
111 costs.

The motion passed unanimously 10-0-3, with Representatives Hogue, McGee, and Ferrin absent for the vote.

MOTION: Representative Wyatt moved to pass the bill out favorably as amended. The motion passed unanimously 11-0-2, with Representatives Hogue and McGee absent for the vote.

S.B. 104 Judiciary Amendments (*Sen. L. Hillyard*)

Senator Hillyard introduced the bill and explained its intent.

Mark Jones, Courts, spoke for the bill.

MOTION: Representative Wyatt moved to pass the bill out favorably. The motion passed unanimously 11-0-2, with Representatives Hogue and McGee absent for the vote.

MOTION: Representative Fowlke moved to place the bill on the Consent Calendar. The motion passed unanimously 11-0-2, with Representatives Hogue and McGee absent for the vote.

S.B. 116 Arbitration - Use of Subpoena Authorized (Sen. D. Eastman)

Senator Eastman introduced the bill and explained its intent.

MOTION: Representative Lawrence moved to pass the bill out favorably. The motion passed unanimously 8-0-5, with Representatives Ferry, Hogue, McGee, Wyatt and Ferrin absent for the vote.

MOTION: Representative Hardy moved to place the bill on the Consent Calendar. The motion passed unanimously 8-0-5, with Representatives Ferry, Hogue, McGee, Wyatt and Ferrin absent for the vote.

S.B. 15 Children's Justice Center Amendments (Sen. D. C. Buttars)

Senator Buttars introduced the bill and explained its intent.

Susan Mitchel, Director of Children's County Justice Center, spoke for the bill.

MOTION: Representative Wyatt moved to pass the bill out favorably.

SUBSTITUTE

MOTION: Representative Hendrickson moved to amend the bill as follows:

1. Page 1, Lines 14 through 15
Senate Committee Amendments
1-20-2005:

- 14 ~~children or in the presence of children]~~ CRIMES INVOLVING CHILDREN WHEN
THE CHILD IS A
14a PRIMARY VICTIM OR A CRITICAL WITNESS { -, SUCH AS DOMESTIC
VIOLENCE CASES } AND
14b DRUG-RELATED CHILD ENDANGERMENT CASES § .
15 Monies Appropriated in this Bill:

2. Page 2, Lines 32 through 34
Senate Committee Amendments
1-20-2005:

32 (b) § ~~[other criminal offense committed against the child or committed in the~~
~~presence of~~
33 ~~the child]~~ OTHER CRIMES INVOLVING CHILDREN WHERE THE CHILD IS A
PRIMARY VICTIM OR A
33a CRITICAL WITNESS {~~-, SUCH AS IN DOMESTIC VIOLENCE CASES~~} AND
DRUG-RELATED CHILD
33b ENDANGERMENT CASES § ~~.~~
34 (2) "Agreement" means a written contract between two or more public agencies and

3. Page 2, Lines 55 through 56
Senate Committee Amendments
1-20-2005:

55 ~~committed in the presence of children;]~~ AND OTHER CRIMES INVOLVING
CHILDREN WHERE THE
55a CHILD IS A PRIMARY VICTIM OR A CRITICAL WITNESS {~~-, SUCH AS IN~~
DOMESTIC VIOLENCE CASES }

55b AND DRUG-RELATED CHILD ENDANGERMENT CASES, § in a facility known as
a Children's Justice
55c Center.
56 (b) The attorney general shall administer the program.

4. Page 3, Line 89 through Page 4, Line 90
Senate Committee Amendments
1-20-2005:

89 physical abuse of children § ~~[in the state]~~ AND OTHER CRIMES IN THE STATE
INVOLVING
89a CHILDREN WHERE THE CHILD IS A PRIMARY VICTIM OR A CRITICAL
WITNESS {~~-, SUCH AS IN~~
89b DOMESTIC VIOLENCE CASES } AND DRUG-RELATED CHILD
ENDANGERMENT CASES § ; ~~[and]~~
90 (j) providing as many services as possible that are required for the thorough and

5. *Page 4, Lines 100 through 101*
Senate Committee Amendments
1-20-2005:

- 100 ~~against children or committed in the presence of children~~ CRIMES INVOLVING CHILDREN WHERE
- 100a THE CHILD IS A PRIMARY VICTIM OR A CRITICAL WITNESS {-, SUCH AS IN DOMESTIC VIOLENCE}
- 100b CASES AND DRUG-RELATED CHILD ENDANGERMENT CASES § 2 in a facility known as a Children's
- 101 Justice Center.

6. *Page 5, Lines 144 through 145*
Senate Committee Amendments
1-20-2005:

- 144 ~~committed in the presence of children~~ CRIMES INVOLVING CHILDREN WHERE THE CHILD IS A
- 144a PRIMARY VICTIM OR A CRITICAL WITNESS {-, SUCH AS IN DOMESTIC VIOLENCE CASES} AND
- 144b DRUG-RELATED CHILD ENDANGERMENT CASES § ;
- 145 (f) recommend programs to improve the prompt and fair resolution of civil and

7. *Page 5, Lines 149 through 150*
Senate Committee Amendments
1-20-2005:

- 149 ~~offenses committed against children or committed in the presence of children~~ CRIMES INVOLVING
- 149a CHILDREN WHERE THE CHILD IS A PRIMARY VICTIM OR A CRITICAL WITNESS {-, SUCH AS IN
- 149b DOMESTIC VIOLENCE CASES} AND DRUG-RELATED CHILD ENDANGERMENT CASES § .
- 150 (5) The Advisory Board on Children's Justice may not supersede the authority of the

The substitute motion to amend the bill passed unanimously 10-0-3, with Representatives Ferry, Hogue, and McGee absent for the vote.

MOTION: Representative Wyatt moved to pass the bill out favorably. The motion passed unanimously 10-0-3, with Representatives Ferry, Hogue, and McGee absent for the vote.

MOTION: Representative Hardy moved to adjourn. The motion passed unanimously 10-0-3, with Representatives Ferry, Hogue, and McGee absent for the vote.

Representative Hutchings adjourned the meeting at 4:36 p.m.

Rep. James A. Ferrin, Chair