

**MINUTES OF THE
HOUSE JUDICIARY STANDING COMMITTEE MEETING
Room W010 - State Capitol Complex
February 14, 2005**

MEMBERS PRESENT: Rep. James A. Ferrin, Chair
Rep. Eric K. Hutchings, Vice Chair
Rep. Douglas C. Aagard
Rep. Lorie D. Fowlke
Rep. Ann W. Hardy
Rep. Neal B. Hendrickson
Rep. David L. Hogue
Rep. Susan Lawrence
Rep. Rosalind J. McGee
Rep. Ross Romero
Rep. Scott L. Wyatt

MEMBERS ABSENT: Rep. Ben C. Ferry
Rep. Glenn A. Donnelson

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 Ferrin called the meeting to order at 8:24 a.m.

MOTION: Representative Hendrickson moved to approve the minutes of the February 10, 2005 meeting. The motion passed unanimously with Representatives Donnelson, Ferry, Hogue, and Wyatt absent for the vote

S.B. 14 **Uniform Parentage Act (*Sen. L. Hillyard*)**

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

1. *Page 1, Lines 21 through 22
Senate Committee Amendments
1-20-2005:*

21 Other Special Clauses:

22 § [~~This bill has an immediate effective date.~~] { THIS BILL TAKES EFFECT ON
JANUARY 1, 2006. } None

2. Page 6, Lines 159 through 162:

159 (3) "Declarant father" means a male who {~~, along with the biological mother,~~
-} [declares
160 that he is the father of a child conceived as a result of sexual intercourse with the mother]
161 claims to be the genetic father of a child, and , along with the biological mother,
signs a voluntary declaration of paternity to
162 establish the child's paternity.

3. Page 17, Lines 518 through 520:

518 78-45g-109. Limitation on recovery from the father.
519 The {~~father's~~} obligor's liabilities for past support are limited to the period
of four years preceding
520 the commencement of an action.

4. Page 34, Lines 1038 through 1050:

1038 78-45g-607. Limitation -- Child having presumed father.
1039 (1) Paternity of a child conceived or born during a marriage with a presumed father
as
1040 described in Subsection 78-45g-204(1)(a), (b), or (c), may {only} be raised by the
presumed
1041 father or the mother at any time prior to filing an action for divorce or in the pleadings at
the
1042 time of the divorce of the parents.
1043 (a) If the issue is raised prior to the adjudication, genetic testing may be ordered by
the

* * * Some lines not shown * * *

1048 mother. {Once} If the question of paternity has been raised in the pleadings in
a divorce and the tribunal addresses the issue and enters an order {is
entered} .
1049 the parties are estopped from raising the issue again, and the order of the tribunal may not
be
1050 challenged on the basis of material mistake of fact.

5. Page 41, Lines 1258 through 1259:

1258 (3) In a proceeding to dissolve a marriage, the tribunal is considered to have made
an
1259 adjudication of the parentage of a child if the question of paternity is raised and the
tribunal adjudicates according to Part 6, Adjudication of Parentage, and the final
order:

6. Page 41, Line 1267 through Page 42, Line 1273:

1267 (5) Once the paternity of a child has been adjudicated, an individual who was not a
1268 party to the paternity proceeding may not challenge the paternity, unless:

* * * Some lines not shown * * *

1273 (c) there would be {irreparable} harm to the child to leave the order in place.

7. Page 44, Lines 1331 through 1345:

1331 78-45g-801. Gestational agreement authorized.

* * * Some lines not shown * * *

(2) The intended gestational mother may not currently be receiving Medicaid
or any other state assistance.

1340 Renumber remaining subsections accordingly.

8. Page 44, Line 1360 through Page 45, Line 1369:

1360 (2) The tribunal may issue an order under Subsection (1) only on finding that:

* * * Some lines not shown * * *

(d) all parties have participated in counseling with a licensed mental health
professional as evidenced by a certificate signed by the licensed mental health
professional which affirms that all parties have discussed options and consequences
of the agreement and presented to the tribunal;

Renumber remaining subsections accordingly.

9. Page 48, Lines 1471 through 1475
Senate Committee Amendments
1-20-2005:

1471 ~~{Section 101. Effective date.~~

1472 ~~§ [If approved by two-thirds of all members elected to each house, this bill takes~~
~~effect~~

1473 ~~upon approval by the governor, or the day following the constitutional time limit of~~
~~Utah~~

- 1474 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto;
1475 the date of veto override.] THIS BILL TAKES EFFECT ON JANUARY 1, 2006
§ }

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

Senator Hillyard introduced the bill and explained its intent.

The following members of the public spoke for the bill:

Emma Chacon, Office of Recovery Services
Stewart Ralphs, Legal Aid Society
Shelly Riley, Utah Adoption Council

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

S.B. 10 Liability Reform Act Amendments (Sen. G. Bell)

Senator Bell introduced the bill and explained its intent with the assistance of Ralph Dewshup, UTLA.

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

H.B. 306 Amendment Regarding Controlled Substances (Rep. C. Oda)

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

1. Page 1, Lines 15 through 17:

- 15 members of Indian tribes regarding the peyote use exemption; ~~{-and}~~
16 ▶ provides a reference to the exemption created by the definitions under the
listing of
17 Schedule I controlled substances ; and
 ▶ provides related qualifying language regarding driving with any
measurable controlled substance in the body .

2. *Page 1, Lines 23 through 24:*

23 AMENDS:

24 = **41-6a-517, as renumbered and amended by Chapter 2, Laws of Utah 2005**

3. *Page , Line 28 through Page 2, Line 28:*

28 *Be it enacted by the Legislature of the state of Utah:*

Section 1. Section 41-6A-517 is amended to read:

41-6a-517. Definitions -- Driving with any measurable controlled substance in the body -- Penalties -- Arrest without warrant.

(1) As used in this section:

(a) "Controlled substance" means any substance scheduled under Section 58-37-4.

(b) "Practitioner" has the same meaning as provided in Section 58-37-2.

(c) "Prescribe" has the same meaning as provided in Section 58-37-2.

(d) "Prescription" has the same meaning as provided in Section 58-37-2.

(2) In cases not amounting to a violation of Section 41-6a-502, a person may not operate or be in actual physical control of a motor vehicle within this state if the person has any measurable controlled substance or metabolite of a controlled substance in the person's body.

(3) It is an affirmative defense to prosecution under this section that the controlled substance was :

(a) involuntarily ingested by the accused ~~{or}~~ :

(b) prescribed by a practitioner for use by the accused or

(c) otherwise legally ingested .

(4) A person convicted of a violation of Subsection (2) is guilty of a class B misdemeanor.

(5) A peace officer may, without a warrant, arrest a person for a violation of this section when the officer has probable cause to believe the violation has occurred, although not in the officer's presence, and if the officer has probable cause to believe that the violation was committed by the person.

(6) The Driver License Division shall:

(a) suspend, for 90 days, the driver license of a person convicted under Subsection (2);

(b) revoke, for one year, the driver license of a person convicted of a second or subsequent offense under Subsection (2) or if the person has a prior conviction as defined under Subsection 41-6a-501(2), if the violation is committed within a period of ten years after the date of the prior violation; and

(c) subtract from any suspension or revocation period the number of days for which a license was previously suspended under Section 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon which the record of conviction is based.

(7) (a) The court shall notify the Driver License Division if a person fails to:

(i) complete all court ordered screening and assessment, educational series, and substance abuse treatment; or

(ii) pay all fines and fees, including fees for restitution and treatment costs.

(b) Upon receiving the notification, the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

(8) The court shall order supervised probation in accordance with Section 41-6a-507 for a person convicted under Subsection (2).

Renumber remaining sections accordingly.

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

Representative Oda introduced the bill and explained its intent with the assistance of Kris Leonard, Utah Attorney General's Office.

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

Representative Ferrin passed the gavel to Representative Hutchings.

H.B. 342 Civil Legal Aid for Victims of Domestic Violence (Rep. S. Mascaro)

Representative Mascaro introduced the bill and explained its intent with the assistance of Stewart Ralphs, Legal Aid Society.

MOTION: Representative Hendrickson moved to pass the bill out favorably. The motion passed unanimously 9-0-4, with Representatives Donnelson, Ferry, McGee, and Ferrin absent for the vote.

MOTION: Representative Romero moved to adjourn. The motion passed unanimously 9-0-4, with Representatives Donnelson, Ferry, McGee, and Ferrin absent for the vote.

Representative Hutchings adjourned the meeting at 9:50 a.m.

Rep. James A. Ferrin, Chair