

**MINUTES OF THE
SENATE JUDICIARY, LAW ENFORCEMENT, AND CRIMINAL JUSTICE
STANDING COMMITTEE
THURSDAY, JANUARY 19, 2006
Room W130, West Office Building, State Capitol Complex**

Members Present: Sen. D. Chris Buttars, Chair
Sen. Patrice M. Arent
Sen. Gregory Bell
Sen. Mike Dmitrich
Sen. Mark B. Madsen
Sen. L. Alma Mansell
Sen. David L. Thomas

Members Excused: Sen. Lyle Hillyard

Staff Present: Jerry Howe, Policy Analyst
Bonnie Brinton, Committee Secretary

Public Speakers Present: James O. Tracy, Sheriff, Utah County
Chris Mitchell, Department of Corrections
Reid Richards, Sheriff's Association
Brent Gardner, Executive Director, Utah Association of Counties
Clark Newhall, MD, JD
Rick Schwermer, Administrative Office of the Courts
Charlie Thronson, Attorney, Utah Trial Lawyers Association
Dave Gessel, Vice President, Utah Hospital Association
Elliott Williams, Attorney, Utah Medical Association
Edward Havas, Attorney, Utah Trial Lawyers Association
R. C. Loftus, Attorney, Utah Medical Association
Alisha Roddy, Malpractice Victim

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

Committee Chair Buttars called the meeting to order at 8:15 a.m.

1. S.B. 50 Jail Funding Amendments (D. Thomas)

MOTION: Sen. Thomas moved to substitute S.B. 50 in title and body with 1st Sub. S.B. 50. The motion passed unanimously with Sens. Bell, Madsen and Mansell absent for the vote.

Sen. Thomas presented the bill.

Sheriff James O. Tracy, Utah County, spoke in favor of the bill.

Chris Mitchell, Department of Corrections, and Reid Richards, Sheriff's Association, clarified the bill.

Brent Gardner, Executive Director, Utah Association of Counties, spoke in favor of the bill.

MOTION: Sen. Arent moved to pass 1st Sub. S.B. 50 out of committee with a favorable recommendation. The motion passed unanimously, with Sens. Dmitrich and Madsen absent for the vote.

2. 1st Sub. S.B. 41 Restrictions on Use of Physician Disclosures (D. Thomas)

Sen. Thomas presented the bill and distributed a handout titled "Doctor Apology Legislation."

MOTION: Sen. Thomas moved adoption of the following amendment:

1. Page 5, Lines 131 through 133

131 (2) In any civil action or arbitration proceeding relating to an unanticipated outcome of
132 medical care, any **unsworn** statement, affirmation, gesture, or conduct made to the
 patient by the
133 defendant shall be inadmissible as evidence of an admission against interest or of liability
 if it:

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

The following speakers spoke in opposition to the bill:

Clark Newhall, MD, JD
Rick Schwermer, Administrative Office of the Courts
Charlie Thronson, Attorney, Utah Trial Lawyers Association
Edward Havas, Attorney, Utah Trial Lawyers Association
Alisha Roddy, Malpractice Victim

The following speakers spoke in favor of the bill:

Dave Gessel, Vice President, Utah Hospital Association
Elliott Williams, Attorney, Utah Medical Association
R. C. Loftus, Attorney, Utah Medical Association

MOTION: Sen. Thomas moved to pass 1st Sub. S.B. 41, as amended, out of committee with a favorable recommendation. The motion passed unanimously, with Sen. Dmitrich absent for the vote.

MOTION: Sen. Arent moved to adjourn. The motion passed unanimously, with Sen. Dmitrich absent for the vote.

Committee Chair Buttars adjourned the meeting at 9:50 a.m.

Minutes recorded by Bonnie Brinton, Committee Secretary

Sen. D. Chris Buttars, Committee Chair