

**Corrected**  
**MINUTES OF THE HOUSE**  
**LAW ENFORCEMENT AND CRIMINAL JUSTICE STANDING COMMITTEE**  
**Room WO25, West Office Building, State Capitol Complex**  
**January 29, 2007**

**Members Present:** Rep. DeMar "Bud" Bowman, Chair  
Rep. Curt Oda, Vice Chair  
Rep. David Litvack  
Rep. Becky Lockhart  
Rep. Michael Morley  
Rep. Paul Ray  
Rep. Jennifer Seelig  
Rep. Ken Sumsion  
Rep. Larry Wiley  
Rep. Carl Wimmer

**Members Absent:** Rep. Brad Dee

**Staff Present:** Mr. Stewart Smith, Policy Analyst  
Ms. Linda Black, Committee Secretary

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

Rep. Bowman called the meeting to order at 8:00 a.m. and turned the chair over to Rep. Oda.

**MOTION:** Rep. Ray moved to approve the minutes of January 25, 2007. The motion passed unanimously with Rep. Lockhart, Rep. Morley, Rep. Seelig, and Rep. Wiley absent for the vote.

**H.B. 197**      **Amendments to Background Checks by Department of Health** (*Rep. D. G. Buxton*)

Rep. Buxton introduced the bill with the assistance of Dr. Marc Babitz, M.D., Utah Dept. of Health.

Spoke to the bill:      Ms. Dalene England, Eagle Forum

**MOTION:** Rep. Ray moved to pass the bill out favorably. The motion passed unanimously with Rep. Wiley absent for the vote.

**H.B. 93**      **Capital Offenses Amendments** (*Rep. P. Ray*)

Rep. Ray moved to amend the bill as follows:

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

16    constitutes aggravated murder,    { ~~whether or not the specified offenses were~~

17    ~~committed intentionally or knowingly~~ }    if committed with reckless indifference to

human life .

2. Page 2, Lines 41 through 45:

- 41 robbery, rape, {+} **rape of a child**, {+} object rape, {+} **object rape of a**  
**child**, {+} forcible sodomy, {+} **sodomy**  
42 **upon a child**, {+} forcible sexual abuse, {+} **sexual abuse of a child, aggravated**  
**sexual abuse of a**  
43 **child, child abuse as defined in Subsection 76-5-109(2)(a)**, {+} or aggravated sexual  
assault,  
44 aggravated arson, arson, aggravated burglary, burglary, aggravated kidnapping, or  
kidnapping {+} ,  
45 **or child kidnapping** {+} ;

3. Page 4, Line 116:

- 116 (2) Criminal homicide constitutes aggravated murder if the actor .with reckless  
indifference to human life, causes the death of

4. Page 4, Line 118:

- 118 actor {committed or attempted to commit} is a major participant in the  
commission or attempted commission of ;

5. Page 4, Line 119:

- 119 (a) child abuse, Subsection 76-5-109(2)(a) {or (b)} ;

The motion passed unanimously.

Rep. Ray explained the bill with the assistance of Mr. Paul Boyden, Statewide Association of Prosecutors.

MOTION: Rep. Wimmer moved to pass the bill out favorably as amended. The motion passed with Rep. Litvack and Rep. Wiley voting in opposition.

Rep. Oda relinquished the chair to Rep. Bowman.

**H.B. 263 Jail Expenses Amendments** (Rep. C. Oda)

Rep. Oda introduced the bill with the assistance of Mr. Reed Richards, Utah Sheriffs Association.

Spoke in favor of the bill: Mr. Troy Rawlings, Davis Co. Attorney

MOTION: Rep. Ray moved to pass the bill out favorably. The motion passed unanimously.

**H.B. 275 Offense Against Peace Officers** (*Rep. C. Oda*)

Rep. Oda introduced the bill with the assistance of Mr. Reed Richards, Utah Sheriffs Assn.

MOTION: Rep. Oda moved to replace **H.B. 275** with **1st Substitute H.B. 275**. The motion passed unanimously.

MOTION: Rep. Ray moved to proceed to the next item on the agenda. The motion passed unanimously with Rep. Litvack absent for the vote.

Rep. Oda resumed the position of chair.

**H.B. 113 Discharge of a Firearm Amendments** (*Rep. C. Wimmer*)

Rep. Wimmer introduced the bill with the assistance of Mr. Paul Boyden, SWAP.

Spoke for the bill: Mr. W. Clark Aposhian, Chairman, Utah Shooting Sports Council

MOTION: Rep. Wiley moved to pass the bill out favorably. The motion passed unanimously with Rep. Litvack absent for the vote.

**1st Substitute H.B. 275 Offense Against Peace Officers** (*Rep. C. Oda*)

MOTION: Rep. Ray moved to reconsider **1st Substitute H.B. 275**. The motion passed unanimously with Rep. Litvack absent for the vote.

MOTION: Rep. Ray moved to amend the bill as follows:

1. *Page 1, Lines 15 through 16:*

15            { → ~~provides that a person who assaults a peace officer after the person has~~  
~~been stopped~~  
16 ~~for questioning is guilty of a third degree felony; and~~ }

2. *Page 1, Line 24 through Page 2, Line 26:*

24 AMENDS:

25{~~76-5-101, as last amended by Chapter 171, Laws of Utah 2003~~  
26 ~~76-5-102.4, as last amended by Chapter 172, Laws of Utah 1998~~}

3. Page 2, Lines 30 through 54:

30 {~~Section 1. Section 76-5-101 is amended to read:~~  
31 ~~76-5-101. "Prisoner" defined.~~  
32 ~~[For purposes of] As used in this part, "prisoner" means any person who is:~~  
33 ~~(1) in custody of a peace officer pursuant to a lawful arrest [or who is];~~  
34 ~~(2) lawfully detained pursuant to Section 77-7-15; or~~  
35 ~~(3) confined in a jail or other penal institution or a facility used for confinement~~  
36 ~~of~~  
37 ~~delinquent juveniles and that is operated by the Division of Juvenile Justice Services;~~  
38 ~~regardless of whether the confinement is legal.~~  
39 ~~Section 2. Section 76-5-102.4 is amended to read:~~  
40 ~~76-5-102.4. Assault against peace officer -- Penalty:~~  
41 ~~(1) Any person who assaults a peace officer, with knowledge that he is a peace~~  
42 ~~officer;~~  
43 ~~and when the peace officer:~~  
44 ~~(a) is acting within the scope of his authority as a peace officer, is guilty of a~~  
45 ~~class A~~  
46 ~~misdemeanor; and~~  
47 ~~(b) is acting within the scope of his authority as a peace officer to stop and~~  
48 ~~question the~~  
49 ~~person pursuant to Section 77-7-15, is guilty of a third degree felony.~~  
50 ~~(2) A person who violates this section shall serve, in jail or another correctional~~  
51 ~~facility, a minimum of:~~  
52 ~~(a) 90 consecutive days for a second offense; and~~  
53 ~~(b) 180 consecutive days for each subsequent offense.~~  
54 ~~(3) The court may suspend the imposition or execution of the sentence required~~  
55 ~~under~~  
56 ~~Subsection (2) if the court:~~  
57 ~~(a) finds that the interests of justice would be best served; and~~  
58 ~~(b) makes specific findings concerning the disposition in writing or on the~~  
59 ~~record.}~~  
60 Section {~~3~~} 1 . Section 76-5-102.6 is amended to read:

4. *Page 3, Line 57:*

57 (1) Any prisoner or person detained pursuant to Section 77-7-15 who throws  
or otherwise propels any substance or object at a peace or

The motion passed unanimously with Rep. Litvack absent for the vote.

MOTION: Rep. Ray moved to pass 1st Substitute H.B. 275 out favorably as amended. The motion passed unanimously with Rep. Litvack absent for the vote.

**H.B. 285 Land Use Development Management Act Amendments** (*Rep. A. Tilton*)

Rep. Tilton introduced the bill.

Spoke in favor of the bill: Mr. Rey Butcher, Questar

Rep. Morley moved to amend the bill as follows:

1. *Page 3, Lines 68 through 69:*

68 (A) indicates only that the plat ~~{-accurately}~~ approximates the location of the  
underground

69 and utility facilities but does not warrant or verify their precise location; and

2. *Page 4, Line 120 through Page 5, Line 121:*

120 (A) indicates only that the plat ~~{-accurately}~~ approximates the location of the  
underground

121 and utility facilities but does not warrant or verify their precise location; and

The motion passed unanimously with Rep. Litvack absent for the vote.

MOTION: Rep. Sumsion moved to further amend the bill as follows:

1. *Page 3, Line 68:*

68 before underground insert existing

2. *Page 4, line 120:*

120 before underground insert existing

The motion passed unanimously with Rep. Litvack absent for the vote.

MOTION: Rep. Wiley moved to pass the bill out favorably as amended. The motion passed unanimously with Rep. Litvack absent for the vote.

MOTION: Rep Morley moved to adjourn. The motion passed unanimously with Rep. Litvack absent for the vote.

Rep. Oda adjourned the meeting at 9:35 a.m.

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Rep. DeMar "Bud" Bowman, Chair