

**MINUTES OF THE HOUSE  
LAW ENFORCEMENT AND CRIMINAL JUSTICE STANDING COMMITTEE  
Room W025, West Office Building, State Capitol Complex**

**February 12, 2007**

**Members Present:** Rep. Curt Oda, Vice Chair  
Rep. Brad Dee  
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 Excused:** Rep. DeMar "Bud" Bowman, Chair

**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. Oda called the meeting to order at 4:08 p.m.

**MOTION:** Rep. Wimmer moved to approve the minutes of February 9, 2007. The motion passed unanimously with Rep. Dee, Rep. Lockhart, Rep. Morley, and Rep. Ray absent for the vote.

Rep.Oda noted the excused absence of Chairman, DeMar "Bud" Bowman.

**S.B. 125      Repeal of Prisoner Demands for Disposition** *(Sen. L. Hillyard)*

Sen. Hillyard presented the bill with the assistance of Mr. Paul Boyden, Executive Director, Statewide Association of Prosecutors'.

**MOTION:** Rep. Ray moved to pass the bill out favorably. The motion passed unanimously with Rep. Dee, Rep. Lockhart, and Rep. Morley absent for the vote.

**H.B. 375      Sex Offender Residence Restrictions** *(Rep. G. Hughes)*

Rep. Hughes presented the bill.

**MOTION:** Rep. Wimmer moved to amend the bill as follows:

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1. Page 1, Lines 21 through 23:

21           ▶     increases the penalties for lewdness offenses committed by a sex offender {~~in~~  
                  α  
22     ~~protected place or protected area when the sex offender is present in those locations~~  
23     ~~as allowed by this bill~~} .

2. Page 2, Lines 49 through 53:

49           (b) {~~(i)~~}     Lewdness is a class A misdemeanor if the person is a sex offender as  
                  defined in  
50     Section 77-27-21.7 {~~and the person commits the offense within a prohibited place or~~  
                  ~~prohibited~~  
51     ~~area as defined in Section 77-27-21.7.~~  
52     —~~(ii) A violation of this Subsection (2)(b) is a separate offense from any other~~  
                  ~~criminal~~  
53     ~~offense the person may commit~~} .

3. Page 4, Lines 93 through 97:

93           (b) {~~(i)~~}     Lewdness involving a child is a third degree felony if the person is a  
                  sex  
94     offender {~~as defined in Section 77-27-21.7 and the person commits the offense within~~  
                  ~~α~~  
95     ~~prohibited place or prohibited area as defined in Section 77-27-21.7~~} .  
96           {~~(ii) A violation of this Subsection (2)(b) is a separate offense from any other~~  
                  ~~criminal~~  
97     ~~offense the person may commit~~} .

4. Page 4, Line 109:

109           (iv) a trade school in which persons younger than 18 years of age enroll ~~, and that~~  
                  is not on the grounds of a correctional facility .

5. Page 5, Line 138:

138     within a protected place ~~within the applicable time requirement of this Subsection (4).~~  
                  ~~The initial date of the time requirement for compliance is the earlier of the initial date~~  
                  ~~when the sex offender is advised of the requirement to comply with this Subsection (4)~~  
                  ~~by a parole officer, law enforcement officer, or by court order. The sex offender shall~~  
                  ~~vacate a residence as required under this section~~ .

6. Page 5, Line 140:

- 140           (ii) at the expiration of the current lease, if the sex offender's tenancy is by  
lease { } ; or  
(iii) within one year, if the sex offender owns the residence or is purchasing the  
residence.  
(b) If the sex offender owns the residence or is purchasing the residence under  
Subsection (4)(a)(iii), the sex offender shall have placed the residence on the housing  
market for sale within one year.

7. Page 6, Line 155:

- 155           (7) It is a class A misdemeanor for any sex offender to :  
(a) reside in any location in violation of Subsections (2), (4), (5), or (6);  
(b) fail to report as required under Subsection (3) if the sex offender's primary  
residence is located within a protected area or protected place; and  
(c) be in any protected area or

The motion passed unanimously with Rep. Dee, Rep. Lockhart, and Rep. Morley absent for the vote.

Spoke to the bill:       Ms. Susan Allred, Office of Legislative Research and General Counsel,  
State of Utah

Rep. Oda relinquished the chair to Rep. Wimmer.

MOTION:       Rep. Dee moved to proceed to the next item on the agenda. The motion passed unanimously with Rep. Lockhart, Rep. Morley and Rep. Oda absent for the vote.

**H.B. 438       Jail Contracting - Jail Compensation Amendments** (Rep. M. Noel)

Rep.Noel introduced the bill. (handout)

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

1. Page 4, Lines 102 through 104:

- 102           (2) "State daily incarceration rate" means the final state daily incarceration  
rate. **rounded down to the nearest half-dollar.**  
103 reviewed and discussed under Subsection 64-13e-105(2), and approved by the Legislature  
104 under Subsection 64-13e-105(3), that reflects the expenses of the department, including:

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

120 (5) "State probationary inmate" means felony probationers sentenced to time in  
a county jail  
121 under Subsection 77-18-1(8).

3. *Page 6, Lines 172 through 173:*

172 (6) Counties that receive the reimbursement described in this section shall, on or  
before  
173 {~~June 30~~} July 31 of each year, submit a report to the department , for the  
preceding fiscal year, that includes:

4. *Page 6, Lines 180 through 182:*

180 (1) (a) Before {~~December~~} September 1 of each year, the department shall  
inform the counties of the  
181 department's proposed state daily incarceration rate for the fiscal year beginning on July 1  
of  
182 the following year.

5. *Page 7, Lines 186 through 187:*

186 (2) Before {~~January~~} October 1 of each year, the following parties shall  
meet to review and  
187 discuss the proposed state daily incarceration rate, described in Subsection (1):

6. *Page 7, Lines 204 through 205:*

204 (3) (a) The state daily incarceration rate, reviewed and discussed under  
Subsection (2),  
205 may not be implemented until approved by the Legislature in the annual appropriations  
act.

- (b) **Nothing in this chapter prohibits the Legislature from setting the final state daily incarceration rate at an amount higher or lower than:**
- (i) **the rate that is reviewed and discussed under Subsection (2); or**
  - (ii) **the rate that was used during the preceding fiscal year.**

The motion passed unanimously with Rep. Lockhart and Rep. Morley absent for the vote.

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

Rep. Oda resumed the chair.

**S.B. 140 Identity Fraud Amendments** (*Sen. C. Walker*)

Sen. Walker presented the bill with the assistance of Mr. Richard Hamp, Office of the Attorney General.

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

**H.B. 402 Pawnshop Transaction Information Amendments** (*Rep. R. Lockhart*)

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

1. *Page 1, Line 14:*

- 14       ▶ defines secondhand merchandise dealers;  
          ▶ defines persons and entities who are not secondhand merchandise dealers;

2. *Page 2, Line 35:*

- 35       13-32a-109.8, as enacted by Chapter 290, Laws of Utah 2006  
13-32a-111, as last amended by Chapter 290, Laws of Utah 2006

3. *Page 4, Lines 92 through 93:*

- 92       (17) (a) "Secondhand merchandise dealer" means an owner or operator of a  
          business that:  
93        ~~{(a)}~~ (i) deals in the purchase, exchange, or sale of used or secondhand  
          merchandise or

4. *Page 4, Line 95:*

- 95       ~~{(b)}~~ (ii) does not function as a pawnbroker.  
(b) "Secondhand merchandise dealer" does not include:  
(i) auction houses, flea markets, or vehicle, vessel, and outboard motor dealers as  
defined in Section 41-1a-102;  
(ii) the sale of secondhand goods at events commonly known as "garage sales," "yard

sales," or "estate sales";

(iii) the sale or receipt of secondhand books, magazines, or post cards;

(iv) the sale or receipt of used merchandise donated to recognized nonprofit, religious, or charitable organizations or any school-sponsored association for which no compensation is paid;

(v) the sale or receipt of secondhand clothing and shoes; or

(vi) any person offering his own personal property for sale, purchase, consignment, or trade via the Internet;

(vii) any person or entity offering the personal property of others for sale, purchase, consignment, or trade via the Internet, when that person or entity does not have, and is not required to have, a local business or occupational for this activity; or

(viii) an owner or operator of a business that contracts with other persons or entities to offer those persons' secondhand goods for sale, purchase, consignment, or trade via the Internet.

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5. *Page 11, Line 331:*

331 been seized by the law enforcement agency pursuant to Section 13-32a-109.5.

**Section 11. Section 13-32A-111 is amended to read:**

**13-32a-111. Fees to fund training and central database.**

(1) On and after January 1, 2005, each pawnshop **or secondhand merchandise dealer** in operation shall annually pay \$250 to the division, to be deposited in the account.

(2) On and after January 1, 2005, each law enforcement agency that participates in the use of the database shall annually pay to the division a fee of \$2 per sworn law enforcement officer who is employed by the agency as of January 1 of that year. The fee shall be deposited in the account.

(3) The fees under Subsections (1) and (2) shall be paid to the account annually on or before January 30.

(4) (a) If a law enforcement agency outside Utah requests access to the central database, the requesting agency shall pay a yearly fee of \$750 for the fiscal year beginning July 1, 2006, which shall be deposited in the account.

(b) The board may establish the fee amount for fiscal years beginning on and after July 1, 2007 under Section 63-38-3.

*Please renumber following sections accordingly.*

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

Spoke in favor of the bill: Mr. David Spatafore, Utah Chiefs' of Police

MOTION: Rep. Dee moved to pass the bill out favorably as amended. The motion passed unanimously.

**S.B. 112S1 Methamphetamine Precursor Access Amendments** (*Sen. D. C. Buttars*)

Sen. Buttars presented the bill with the assistance of Ms. Jacey Skinner, Statewide Association of Prosecutors'.

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

1. *Page 6, Line 156:*

156 (a) the following information. provided or written in the log by the purchaser:

The motion passed unanimously with Rep. Dee, Rep. Lockhart, and Rep. Seelig absent for the vote.

MOTION: Rep. Litvack moved to pass **S.B. 112S1** out favorably as amended. The motion passed with Rep. Ray voting in opposition. Rep. Dee and Rep. Lockhart were absent for the vote.

MOTION: Rep. Wiley moved to adjourn. The motion passed unanimously with Rep. Dee and Rep. Lockhart absent for the vote. Rep. Oda adjourned the meeting at 5:50 p.m.

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Rep. DeMar "Bud" Bowman, Chair