

**MINUTES OF THE
SENATE JUDICIARY, LAW ENFORCEMENT & CRIMINAL JUSTICE
STANDING COMMITTEE MEETING
TUESDAY, FEBRUARY 12, 2008, 8:00 AM.
ROOM C250, STATE CAPITOL, UTAH STATE CAPITOL COMPLEX**

Members Present: Sen. Gregory S. Bell, Chair
Sen. Jon J. Greiner
Sen. Lyle W. Hillyard
Sen. Mark B. Madsen
Sen. Scott D. McCoy
Sen. Ross I. Romero

Members Excused: Pres. John L. Valentine

Staff Present: Jerry Howe, Policy Analyst
Karen C. Allred, Committee Secretary

Public Speakers Present: Justice Ronald Nehring, Utah Supreme Court
Roger Tew, League of Cities and Towns
Adam Trupp, Utah Association of Counties
Rick Schwermer, Assistant Court Administrator, AOC
John Tinsley, Private Investigator
Paul Boyden, Executive Director, State Wide Association of
Prosecutors
of Jacey Skinner, Deputy District Attorney, State Wide Association
Prosecutors
Rod Layton, Director, Weber/Morgan Childrens Justice Center
Larry Jenkins, Attorney, Utah Adoption Council
"J", Citizen
Scott Carver, Director, Utah Sentencing Commission Director

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

Chair Bell called the meeting to order at 8:05

Approval of Minutes

MOTION: Sen. Greiner moved to approve the minutes of Feb. 5, 2008 and Feb. 8, 2008.

The motion passed unanimously with Sens. Madsen and McCoy absent for the vote.

1. **S.B. 72 Justice Court amendments** (*L. Hillyard*)

MOTION: Sen. Hillyard moved to substitute S.B. 72 with 1st Substitute S.B. 72.

The motion passed unanimously with Sen. Madsen absent for the vote.

Sen. Hillyard presented and explained 1st Substitute S.B. 72.

Justice Ronald Nehring, Utah Supreme Court, Roger Tew, League of Cities and Towns; Adam Trupp, Utah Association of Counties; and Rick Schwermer, Assistant Court Administrator, AOC, spoke in favor of the bill.

MOTION: Sen. Hillyard moved to pass 1st Substitute S.B. 72 out of committee with a favorable recommendation.

The motion passed unanimously.

2. **S.B. 290 Private Investigators: Access to Driver Licensure Information** (*M. Dayton*)

Sen. Dayton presented and explained the bill.

John Tinsley, Private Investigator spoke in favor of the bill.

MOTION: Sen. McCoy moved to pass S.B. 290 out of committee with a favorable recommendation.

The motion passed unanimously with Sen. Hillyard absent for the vote.

MOTION: Sen. Greiner moved to place S.B. 290 on the Consent Calendar.

The motion passed unanimously with Sen. Hillyard absent for the vote.

3. **S.B. 191 Judicial Conduct Commission Amendments** (*G. Davis*)

Sen. Davis presented and explained the bill.

MOTION: Sen. McCoy moved to pass S.B. 191 out of committee with a favorable recommendation.

The motion passed unanimously with Sen. Hillyard absent for the vote.

4. **SJR 09 Joint Resolution Amending Rules of Evidence Relation to Information**

Contained in the Management Information System *(G. Davis)*

Sen. Davis presented and explained SJR 09.

Rick Schwermer, Assistant Court Administrator, Courts spoke in favor of the bill.

The chair recommended that the committee move to the next item on the agenda.

Sen. Romero raised the question with the committee and the bill sponsor, Sen. Davis whether or not S. B. 102, Animal Torture Offense, would be heard in committee. The committee decided it had given ample time to hearing the issues raised by S.B. 102 and that it would be better to debate the bill on the floor.

5. **S.B. 187 Bail in Capital Offense Cases** *(J. Greiner)*

Sen. Greiner presented and explained the bill.

Paul Boyden, Executive Director, State Wide Association of Prosecutors spoke in favor of the bill.

MOTION: Sen. McCoy moved to send S.B. 187 out of committee with a favorable recommendation.

The motion passed unanimously with Sens. Hillyard and Madsen absent for the vote.

MOTION: Sen. McCoy moved to place S.B. 187 on the Consent Calendar.

The motion passed unanimously with Sens. Hillyard and Madsen absent for the vote.

6. **S.B. 192 Sex Offense Amendments** *(J. Greiner)*

Sen. Greiner distributed an amendment to the bill, and then presented and explained the bill.

MOTION: Sen. Greiner moved to adopt the following amendment:

1. *Page 1, Lines 13 through 17:*

13 {→ ~~provides that a minor who is younger than 16 years of age, and who~~
~~engages in~~

14 ~~sexual activity with another minor who is less than three years older or younger than~~

15 ~~the acting minor, but who is not older than 17 years, is guilty of a class B~~
16 ~~misdemeanor if the sexual conduct does not involve forcible acts, including rape;~~
17 ~~sexual abuse, and forcible sodomy; and }~~

2. *Page 1, Line 28:*

28 {~~76-5-401.3, Utah Code Annotated 1953~~}

3. *Page 3, Lines 62 through 89:*

62 {~~Section 2. Section 76-5-401.3 is enacted to read:~~

63 ~~—76-5-401.3. Unlawful sexual activity between minors -- Elements -- Penalty.~~

64 ~~—(1) As used in this section, "minor" means an actor who is younger than 16~~
~~years of age~~

65 ~~at the time the minor engages in sexual conduct described in Subsection (2).~~

66 ~~—(2) A minor commits unlawful sexual activity between minors if, under~~
~~circumstances~~

67 ~~not amounting to any offense listed in Subsection (3), the minor actor engages in any~~
~~of the~~

68 ~~following conduct with another person who is fewer than three years older or fewer~~
~~than three~~

69 ~~years younger than the minor, but not older than 17 years of age:~~

70 ~~—(a) sexual intercourse;~~

71 ~~—(b) any sexual act involving the genitals of one person and the mouth or anus of~~
72 ~~another person, regardless of the sex of either participant; or~~

73 ~~—(c) causes the penetration, however slight, of the genital or anal opening of the~~
~~person~~

74 ~~by any foreign object, substance, instrument, or device, including a part of the human~~
~~body;~~

75 ~~with the intent to cause substantial emotional or bodily pain to any person or with the~~
~~intent to~~

76 ~~arouse or gratify the sexual desire of any person, regardless of the sex of any~~
~~participant.~~

77 ~~—(3) The offenses referred to in Subsection (2) are:~~

78 ~~—(a) rape, in violation of Section 76-5-402;~~

79 ~~—(b) rape of a child, in violation of Section 76-5-402.1;~~

- 80 ~~—(c) object rape, in violation of Section 76-5-402.2;~~
81 ~~—(d) object rape of a child, in violation of Section 76-5- 402.3;~~
82 ~~—(e) forcible sodomy, in violation of Section 76-5-403;~~
83 ~~—(f) sodomy on a child, in violation of Section 76-5-403.1;~~
84 ~~—(g) forcible sexual abuse, in violation of Section 76-5- 404;~~
85 ~~—(h) sexual abuse of a child, in violation of Section 76-5- 404.1; or~~
86 ~~—(i) any other offense that involves sexual conduct and which would be~~
~~consensual but~~
87 ~~for the age of one or more of the parties;~~
88 ~~—(4) A violation of Subsection (2), unlawful sexual activity between minors, is a~~
~~class B~~
89 ~~misdemeanor. }~~

The motion passed unanimously with Sens. Hillyard and Madsen absent for the vote.

Jacey Skinner, Deputy DA, State Wide Association of Prosecutors and Rod Layton, Director, Weber/Morgan Childrens Justice Center spoke in favor of the bill.

MOTION: Sen. McCoy moved to send S.B. 192 as amended, out of committee with a favorable recommendation.

The motion passed unanimously with Sens. Hillyard and Madsen absent for the vote.

7. **H.B. 46 Adoption and Termination of Parental Rights** (*S. Allen*)

Rep. Allen presented and explained the bill.

Larry Jenkins, Attorney, Utah Adoption Council, spoke in favor of the bill.

MOTION: Sen. McCoy moved to pass H.B. 46 out of committee with a favorable recommendation.

The motion passed unanimously with Sens. Hillyard and Madsen absent for the vote.

8. **H.B. 34 Email Information Required of Registered Sex Offenders** (*J. Bird*)

Rep. Bird presented and explained the bill.

Minutes of the Senate Judiciary, Law Enforcement & Criminal Justice
Standing Committee Meeting
February 05, 2008
Page 6

Scott Carver, Director, Utah Sentencing Commission, and Jacey Skinner, Deputy District Attorney, spoke to the bill.

"J", citizen and Rod Layton, Director, Weber/Morgan Childrens Justice Center, spoke against the bill.

MOTION: Sen. Greiner moved to table H.B. 34.

SUBSTITUTE MOTION: Sen. McCoy moved to adjourn.

The substitute motion passed with Sens. Bell, McCoy and Romero voting in favor, Sens. Greiner and Madsen voting against, with Sen. Hillyard absent for the vote.

The meeting adjourned at 9:50 am.

Sen. Gregory S. Bell, Committee Chair