

**MINUTES OF THE
HOUSE HEALTH AND HUMAN SERVICES STANDING COMMITTEE
ROOM 210, SENATE OFFICE BUILDING, STATE CAPITOL COMPLEX
January 30, 2009**

MEMBERS PRESENT: Rep. Paul Ray, Chair
 Rep. Ronda R. Menlove, Vice Chair
 Rep. Trisha Beck
 Rep. Brad Daw
 Rep. Phil Riesen
 Rep. Stephen E. Sandstrom
 Rep. Evan Vickers

STAFF PRESENT: Mark Andrews, Policy Analyst
 Sylvia Newton, House Secretary
 Thomas Vaughn, Associate General Counsel

Note: A list of visitors and copy of handouts are filed with committee minutes.

Rep. Ray called the meeting to order at 8:12 a.m.

MOTION: Rep. Menlove moved to approve the minutes of the January 27, 2009 meeting. The motion passed unanimously.

H.C.R. 2 Healthy Family Partnership Concurrent Resolution (*Rep. C. Oda*)

Rep. Oda explained the bill to the committee and introduced a group of student leaders from three junior high schools in Davis County, along with David Turner, principal of North Layton Junior High School. The students provided handouts to committee members.

David Turner introduced the students and the following students spoke to the committee:

| | |
|----------------|----------------|
| Lauren Adamson | Hayden Gerrard |
| Cooper Hazen | Lauren Farr |
| Katie Miller | Parker Shaw |

MOTION: Rep. Daw moved to enthusiastically pass the bill with a favorable recommendation. The motion passed unanimously.

H.B. 63 Amendments to Child Welfare (*Rep. W. Harper*)

Rep. Harper explained the bill to the committee.

Spoke in favor of the bill: Duane Betournay, Director, Division of Child and Family Services

Rep. Lorie Fowlke discussed an amendment she prepared for this bill.

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

1. *Page 2, Lines 30 through 31:*

30 ▶ amends provisions relating to the conduct of periodic review hearings for a
 minor in

31 state custody; ~~{and}~~

= ▶ provides that the intentional, knowing, or reckless killing by a child's parent of the child's other parent, without legal justification, constitutes prima facie evidence of parental unfitness; and

2. *Page 2, Line 49:*

49 amended by Laws of Utah 2008, Chapter 3

= 78A-6-508, as last amended by Laws of Utah 2008, Chapter 137 and renumbered and amended by Laws of Utah 2008, Chapter 3

3. *Page 26, Line 797:*

797 ~~be present at each hearing held under this part, but notice is not required to be provided.]~~

= Section 10. Section 78A-6-508 is amended to read:
78A-6-508. Evidence of grounds for termination.

(1) In determining whether a parent or parents have abandoned a child, it is prima facie evidence of abandonment that the parent or parents:

(a) although having legal custody of the child, have surrendered physical custody of the child, and for a period of six months following the surrender have not manifested to the child or to the person having the physical custody of the child a firm intention to resume physical custody or to make arrangements for the care of the child;

(b) have failed to communicate with the child by mail, telephone, or otherwise for six months;

(c) failed to have shown the normal interest of a natural parent, without just cause; or

(d) have abandoned an infant, as described in Subsection 78A-6-316(1).

(2) In determining whether a parent or parents are unfit or have neglected a child the court shall consider, but is not limited to, the following circumstances, conduct, or conditions:

(a) emotional illness, mental illness, or mental deficiency of the parent that renders the parent unable to care for the immediate and continuing physical or emotional needs of

the child for extended periods of time;

(b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive nature;

(c) habitual or excessive use of intoxicating liquors, controlled substances, or dangerous drugs that render the parent unable to care for the child;

(d) repeated or continuous failure to provide the child with adequate food, clothing, shelter, education, or other care necessary for the child's physical, mental, and emotional health and development by a parent or parents who are capable of providing that care;

(e) whether the parent is incarcerated as a result of conviction of a felony, and the sentence is of such length that the child will be deprived of a normal home for more than one year; or

(f) a history of violent behavior.

(3) A parent who, legitimately practicing the parent's religious beliefs, does not provide specified medical treatment for a child is not, for that reason alone, a negligent or unfit parent.

(4) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful or unfit because of a health care decision made for a child by the child's parent unless the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(b) Nothing in Subsection (4)(a) may prohibit a parent from exercising the right to obtain a second health care opinion.

(5) If a child has been placed in the custody of the division and the parent or parents fail to comply substantially with the terms and conditions of a plan within six months after the date on which the child was placed or the plan was commenced, whichever occurs later, that failure to comply is evidence of failure of parental adjustment.

(6) The following circumstances constitute prima facie evidence of unfitness:

(a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any child, due to known or substantiated abuse or neglect by the parent or parents;

(b) conviction of a crime, if the facts surrounding the crime are of such a nature as to indicate the unfitness of the parent to provide adequate care to the extent necessary for the child's physical, mental, or emotional health and development;

(c) a single incident of life-threatening or gravely disabling injury to or disfigurement of the child; ~~{or}~~

(d) the parent has committed, aided, abetted, attempted, conspired, or solicited to commit murder or manslaughter of a child or child abuse homicide ~~{or}~~ ; or

(e) the parent intentionally, knowingly, or recklessly causes the death of another

parent of the child, without legal justification.

Renumber remaining sections accordingly.

The motion to amend the bill passed unanimously.

MOTION: Rep. Beck moved to pass the bill as amended with a favorable recommendation. The motion passed unanimously.

H.B. 69 Guardian Ad Litem Amendments (Rep. W. Harper)

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

1. Page 27, Lines 813 through 816:

813 [~~2~~] (3) (a) The [~~Judicial Council~~] Guardian Ad Litem Oversight Committee shall
814 appoint one person to serve full time as the guardian ad litem director for the state. The
815 guardian ad litem director shall serve at the pleasure of the [~~Judicial Council~~] Guardian Ad
816 Litem Oversight Committee **, in consultation with the state court administrator** .

The motion to amend the bill passed unanimously.

Rep. Harper explained the amended bill to the committee.

Spoke in favor of the bill: Rick Smith, Director, Office of the Guardian ad Litem

MOTION: Rep. Beck moved to pass the bill with a favorable recommendation. The motion passed unanimously.

Rep. Ray relinquished the chair to Rep. Menlove.

1st Sub. H.B. 90 Abortion Law Amendments (Rep. P. Ray)

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

1. Page 1, Lines 14 through 22:

- ▶ defines the term "viable":**
- 14 ▶ provides that an abortion may only be performed in this state if:
- 15 • the unborn child is not viable {~~to survive outside the mother's~~

~~womb~~} ; or
16 • the unborn child is viable ~~{to survive outside the mother's womb}~~ ,
if the abortion
17 is necessary to avert the death of the woman on whom the abortion is
18 performed, the abortion is necessary to avert a serious risk of substantial and
19 irreversible impairment of a major bodily function of the woman, or ~~{the~~
20 ~~abortion is performed, under certain circumstances, on an unborn child who has~~
21 ~~a naturally occurring medical condition that makes it highly unlikely that the~~
22 ~~child will survive more than 24 hours after birth}~~ two physicians who practice
maternal fetal medicine concur, in writing, that the fetus has a defect that is
uniformly diagnosable and uniformly lethal ;

2. Page 2, Line 47:

(1) As used in this section, "viable" means that the unborn child has reached a
stage of fetal development when the unborn child is potentially able to live outside the
womb by natural or artificial life-supportive systems, as determined by the attending
physician to a reasonable degree of medical certainty.
47 ~~{(1)}~~ (2) An abortion may be performed in this state only by a physician
licensed to practice

3. Page 2, Line 52:

52 ~~{(2)}~~ (3) An abortion may be performed in this state only under the
following circumstances:

4. Page 3, Lines 71 through 72:

71 (a) the unborn child is not viable ~~{to survive outside the mother's womb}~~ ; or
72 (b) the unborn child is viable ~~{to survive outside the mother's womb}~~ , if:

5. Page 3, Lines 77 through 86:

77 ~~{(ii)(A) the abortion is performed on an unborn child who has a naturally~~
occurring
78 medical condition that makes it highly unlikely that the child will survive more than
24 hours
79 after birth; and
80 ~~(B) there is not a medically acceptable intervention or procedure that:~~
81 ~~(f) may be performed before or after the child's birth;~~

- 82 — ~~(H) may be performed without risk to the health of the woman on whom the~~
 ~~abortion is~~
83 ~~performed; and~~
84 — ~~(H) has a reasonable chance of extending the child's life beyond 24 hours.~~ }
 (ii) two physicians who practice maternal fetal medicine concur, in writing, in
 the patient's medical record that the fetus has a defect that is uniformly diagnosable
 and uniformly lethal.
- 85 ~~{(3)}~~ (4) Notwithstanding any other provision of this section, a woman who
 seeks to have, or
86 obtains, an abortion for herself is not criminally liable.

6. Page 4, Line 105:

105 Subsection 76-7-302 ~~{(2)}~~ (3) .

The motion to amend the bill passed unanimously.

Rep. Ray explained the amended bill to the committee. Tom Vaughn, Associate General Counsel, clarified points in the bill.

Spoke to the bill: Marina Lowe, staff attorney, ACLU of Utah

Spoke in favor of the bill: Maryann Christensen, Utah Eagle Forum
 Laura Bunker, United Families Utah

Spoke in opposition to the bill: Laura Nell Hodo, M.D., family physician

MOTION: Rep. Daw moved to pass 1st Substitute H.B. 90 as amended with a favorable recommendation. The motion passed with Rep. Riesen voting in opposition to the motion.

Rep. Ray resumed the chair.

H.B. 222 Unborn Child Pain Prevention Act (Rep. C. Wimmer)

Rep. Wimmer presented the bill to the committee and provided a handout that helped to explain provisions of the bill. Thomas Vaughn, Associate General Counsel, responded to questions from committee members throughout the discussion.

Spoke to the bill: Robert Ball, M.D., Fetal Surgery, St. Mark's Hospital

Spoke in favor of the bill: Maryann Christensen, Utah Eagle Forum (handout)
Bryan Hurlbutt, pastor of Lifeline Community Church, West
Jordan

Spoke against the bill: David Turok, M.D., Ob/Gyn and family physician

MOTION: Rep. Sandstrom moved to pass H.B. 222 with a favorable recommendation. The motion passed with Rep. Riesen voting in opposition to the motion.

H.B. 42 Adoption Revisions (*Rep. S. Allen*)

This bill was not heard.

MOTION: Rep. Daw moved to adjourn the meeting. The motion passed unanimously.

Rep. Ray adjourned the meeting at 10:00 a.m.

Rep. Paul Ray
Committee Chair