

**MINUTES OF THE
HOUSE JUDICIARY STANDING COMMITTEE MEETING
Room W020 - House Building, State Capitol Complex
January 27, 2010**

MEMBERS PRESENT: Rep. Lorie D. Fowlke, Chair
Rep. Jim Bird, Vice Chair
Rep. Sheryl L. Allen
Rep. Jackie Biskupski
Rep. Francis Gibson
Rep. Keith Grover
Rep. Eric K. Hutchings
Rep. Christine A. Johnson
Rep. Brian King
Rep. Kay L. McIff
Rep. Kraig Powell
Rep. Mark A. Wheatley

STAFF PRESENT: Jerry D. Howe, Policy Analyst
Kathy Sorg, Committee Secretary

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

Representative Fowlke called the meeting to order at 8:05 a.m.

H.B. 47 Board of Pardons and Parole Technical Amendments (*Rep. E. Hutchings*)

Rep. Hutchings, assisted by Clark A. Harms of the Board of Pardons, introduced the bill and explained it to the committee. Mr. Harms distributed a summary of H.B. 47 to members of the committee.

MOTION: Representative Biskupski moved to pass H.B. 47 with a favorable recommendation. The motion passed unanimously with Rep. Grover and Rep. McIff absent for the vote.

Rep. Fowlke relinquished the chair to Rep. Bird.

H.B. 16 Parent-time Amendments (*Rep. L. Fowlke*)

Rep. Fowlke explained the bill to the committee.

Spoke in opposition to the bill: Todd Stone, citizen
Kris Ormond, citizen
Louis D. Langholtz, Director, Utah Fathers' Rights Meetup Group

Spoke in favor of the bill: Stewart Ralphs, Utah State Bar

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

1. Page 11, Line 329:

329 (1) For purposes of this section, "relocation" means moving ~~{ from the state or }~~
150 miles

The motion to amend H.B. 16 passed unanimously with Rep. Grover and Rep. McIff being absent for the vote.

MOTION: Rep. Johnson moved to pass H.B. 16 with a favorable recommendation. The motion passed unanimously.

Representative Fowlke resumed the chair.

H.B. 10 Court Fees for Inmates (Rep. C. Oda)

Rep. Oda, assisted by Stewart Ralphs, Utah State Bar, explained the bill to the committee.

MOTION: Rep. Bird moved to pass H.B. 10 with a favorable recommendation. The motion passed with Rep. Hutchings and Rep. Fowlke voting in opposition. Rep. Powell was absent for the vote.

H.B. 21 Expungement Revisions (Rep. Julie Fisher)

Rep. Fisher, assisted by Lana Taylor, Attorney General's Office, explained the bill to the committee. Ms. Taylor distributed a summary of H.B. 21 to members of the committee.

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

1. Page 16, Lines 484 through 489:

484 The bureau shall collect fees for the following services:

* * * Some lines not shown * * *

488 (4) ~~expungement~~ application for and issuance of a certificate of eligibility for
expungement as

489 determined by Section ~~[77-18-11]~~ 77-40-106;

2. Page 36, Line 1104 through Page 37, Line 1111:

1104 (4) (a) { A petitioner may expunge one felony conviction.

- 1105 ~~— (b) A petitioner may expunge three misdemeanor convictions, not arising out of~~
a
1106 ~~single criminal episode.~~
- 1107 ~~— (c) A petitioner may not expunge more than four convictions, not arising out of a~~
single
1108 ~~criminal episode. This restriction applies regardless of the jurisdiction in which the~~
1109 ~~expungement was obtained.} A petitioner is not eligible to receive a certificate of
eligibility from the bureau for any record of conviction if the petitioner's criminal
history contains:
(i) more than one criminal episode which contains a conviction for a crime that would
be a felony under Utah law;
(ii) more than two criminal episodes which contain a conviction for a crime that
would be a class A misdemeanor or felony under Utah law; or
(iii) more than three criminal episodes which contain a conviction for a crime that
would be a class B or A misdemeanor or felony under Utah law.
(b) A petitioner may not expunge more than four criminal episodes which contain a
conviction for a crime that would be any type of misdemeanor or felony under Utah
law.~~
- 1110 {~~(d)~~} (c) Infractions are not included in determining the total number of
{~~convictions~~} criminal episodes a person
1111 may expunge.
(d) The restrictions in this Subsection (4) apply regardless of whether the
petitioner has expunged any convictions or any criminal episodes and regardless of
the jurisdiction in which the expungement occurred.

3. Page 37, Lines 1124 through 1132:

- 1124 (2) (a) The bureau shall perform a check of records of governmental agencies,
1125 including national criminal data bases, to determine whether a petitioner is eligible to
receive a
1126 certificate of eligibility under this chapter.
(b) For purposes of determining eligibility under this chapter, the bureau may
review records of arrest, investigation, detention and conviction that have been
previously expunged.
- 1127 {~~(b)~~} (c) If the petitioner meets all of the criteria under Section 77-40-104
or 77-40-105, the
1128 bureau shall issue a certificate of eligibility to the petitioner which shall be valid for a

- period of
- 1129 90 days from the date the certificate is issued.
- 1130 ~~(c)~~ (d) If, after reasonable research, a disposition for an arrest on the criminal history file is
- 1131 unobtainable, the bureau may issue a special certificate giving determination of eligibility
- to
- 1132 the court.

The motion to amend passed with Rep. Hutchings and Rep. McIff voting in opposition and Rep. Biskupski absent for the vote.

MOTION: Rep. Gibson moved to pass H.B. 21 with a favorable recommendation. The motion passed unanimously with Rep. Biskupski absent for the vote.

MOTION: Representative Bird moved to adjourn the meeting. The motion passed unanimously with Rep. Biskupski absent for the vote.

Representative Fowlke adjourned the meeting at 9:52 a.m.

Rep. Lorie Fowlke, Chair