

**MINUTES OF THE
HOUSE JUDICIARY STANDING COMMITTEE MEETING
Room W020 - House Building, State Capitol Complex
February 25, 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.

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

MOTION: Rep. Bird moved to approve the minutes of the February 23, 2009 meeting. The motion passed unanimously with Rep. Allen, Rep. Gibson, Rep. Grover and Rep. Wheatley absent for the vote.

H.B. 355 Legal Guardianship Amendments (*Rep. S. Sandstrom*)

Rep. Sandstrom explained the bill to the committee with the assistance of Michael Holmes, Regulators Hockey.

MOTION: Rep. McIff moved to adopt 1st Sub. H.B. 355. The motion passed unanimously with Rep. Gibson, Rep. Grover and Rep. Wheatley absent for the vote.

MOTION: Rep. McIff moved to amend 1st Sub. H.B. 355 as follows:

1. Page 2, Lines 50 through 51:

50 (b) the school district has proven by {+} a preponderance of the {+}
 {clear and convincing}

51 evidence that the primary purpose for the guardianship is to avoid the payment of tuition,

The motion to amend passed unanimously with Rep. Gibson, Rep. Grover and Rep. Wheatley absent for the vote.

MOTION: Rep. McIff moved to amend 1st Sub. H.B. 355 as follows:

1. *Page 1, Lines 11 through 15:*

11 This bill:

12 { → ~~increases the burden of proof that a school district must demonstrate to~~
~~object to a~~

13 ~~court appointment of a guardian for a minor if certain evidence is met; }~~

14 ▶ requires attorney fees to be paid in certain circumstances; and

15 ▶ makes technical changes.

The motion to amend passed unanimously with Rep. Gibson, Rep. Grover and Rep. Wheatley absent for the vote.

MOTION: Rep. Powell moved to pass 1st Sub. H.B. 355 as amended with a favorable recommendation. The motion passed with Rep. Allen, Rep. Biskupski, Rep. Johnson and Rep. Bird voting against the motion, and with Rep. Gibson, Rep. Hutchings and Rep. Wheatley absent for the vote.

Rep. Fowlke relinquished the chair to Rep. Bird.

1st Sub. H.B. 133 Release of Court Documents and Child Interviews (Rep. L. Fowlke)

Rep. Fowlke explained the bill to the committee.

MOTION: Rep. Fowlke moved to amend 1st Sub. H.B. 133 as follows:

1. *Page 12, Lines 358 through 360:*

358 (e) Pro se defendants shall be advised by the court that an interview received as part
of
359 discovery is confidential and may not be distributed, released, or displayed without prior
360 authorization from the court. **A court's failure to give this notice may not be used as a**
defense to prosecution for a violation of the disclosure rule.

2. *Page 13, Lines 376 through 379:*

376 (2) Pro se litigants shall be advised by the court that private, protected, or sealed any
377 documents received by the party that the party would not have received but for the
litigation
378 and pro se representation are confidential and may not be distributed outside the parties or
the
379 court without prior authorization by the court. **A court's failure to give this notice may**
not be used as a defense to prosecution for a violation of the disclosure rule.

3. *Page 15, Lines 431 through 432:*

431 (vi) the record is a Children's Justice Center investigative interview, video or audio,
the
432 release of which is governed by Section ~~{77-37-44}~~ 77-37-4 .

The motion to amend passed unanimously with Rep. Gibson, Rep. Hutchings and Rep. Wheatley absent for the vote.

MOTION: Rep. Biskupski moved to pass 1st Sub. H.B. 133 as amended with a favorable recommendation. The motion passed unanimously with Rep. Gibson, Rep. Hutchings and Rep. Wheatley absent for the vote.

MOTION: Rep. Biskupski moved to place 1st Sub. H.B. 133 as amended on the Consent Calendar. The motion passed unanimously with Rep. Gibson, Rep. Hutchings and Rep. Wheatley absent for the vote.

1st Sub. H.B. 256 Child Abuse Database Amendments (Rep. L. Fowlke)

Rep. Fowlke explained the bill to the committee.

MOTION: Rep. Allen moved to pass 1st Sub. H.B. 256 with a favorable recommendation. The motion passed unanimously with Rep. Hutchings, Rep. McIff and Rep. Wheatley absent for the vote.

Rep. Fowlke resumed the chair.

H.B. 409 Civil Action for Damages Related to Addiction from Illegal Drug Sale (Rep. C. Herrod)

Rep. Herrod explained the bill to the committee.

MOTION: Rep. Powell moved to amend H.B. 409 as follows:

1. Page 2, Line 44:

44 (b) [~~who~~] unlawfully provided any substance to any person in the chain of transfer of the substance

The motion to amend passed unanimously with Rep. Allen, Rep. Hutchings and Rep. McIff absent for the vote.

Spoke in favor of the bill: Peter Cannon, Davis Co. 9/12 Project.
Gayle Ruzicka, citizen.

MOTION: Rep. King moved to pass H.B. 409 as amended with a favorable recommendation. The motion passed unanimously with Rep. Hutchings and Rep. McIff absent for the vote.

1st Sub. H.B. 289 Judicial Nominating Commission Amendments (Rep. C. Oda)

Rep. Oda explained the bill to the committee.

MOTION: Rep. Bird moved to amend 1st Sub. H.B. 289 as follows:

1. Page 2, Lines 50 through 54:

50 78A-10-103. Procedures governing meetings of judicial nominating commissions.

51 (1) The [~~Judicial Council~~] {~~governor~~} Commission on Criminal and Juvenile Justice shall:

52 (a) in consultation with the Judicial Council, enact rules establishing procedures
53 governing the meetings of the judicial nominating commissions in accordance with Title 63G,

54 Chapter 3, Utah Administrative Rulemaking Act; and

The motion to amend passed unanimously with Rep. Biskupski, Rep. Hutchings, Rep. McIff and Rep. Powell absent for the vote.

Spoke in favor of the bill: Ron Gordon, Utah Commission on Criminal and Juvenile Justice.

Spoke against the bill: Marina Lowe, Legislative and Policy Counsel, ACLU.

Spoke to the bill: John T. Nielsen, Utah State Bar.

MOTION Rep. Allen moved to pass 1st Sub. H.B. 289 as amended with a favorable recommendation. The motion passed with Rep. Biskupski, Rep. Johnson, Rep. King and Rep. Wheatley voting in opposition to the motion, and with Rep. Powell absent for the vote.

H.B. 62 Penalties for Violent Crime in Presence of a Child (Rep. Janice Fisher)

Rep. Fisher explained the bill to the committee with the assistance of Traci Tanner.

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

1. Page 3, Line 65
House Committee Amendments
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65 (4) { ~~In addition to any other penalty, the~~ } The court shall order a person
who violates

The motion to amend passed unanimously with Rep. Powell absent for the vote.

Spoke to the bill: Jacey Skinner, Utah Sentencing Commission.

MOTION: Rep. Biskupski moved to pass H.B. 62 as amended with a favorable recommendation with the understanding that the sponsor would be making additional amendments. The motion passed unanimously with Rep. Gibson, Rep. King and Rep. Powell absent for the vote.

MOTION: Representative Bird moved to adjourn the meeting. The motion passed unanimously with Rep. Gibson, Rep. King and Rep. Powell absent for the vote.

Rep. Fowlke adjourned the meeting at 9:57 a.m.

Rep. Lorie Fowlke, Chair