

**MINUTES OF THE  
HOUSE JUDICIARY STANDING COMMITTEE MEETING  
Room W020 - House Building, State Capitol Complex  
February 11, 2011**

**MEMBERS PRESENT:** Rep. Kay McIff, Chair  
Rep. Francis Gibson, Vice Chair  
Rep. Jackie Biskupski  
Rep. Derek Brown  
Rep. LaVar Christensen  
Rep. Fred Cox  
Rep. Eric Hutchings  
Rep. Ken Ivory  
Rep. Brian King  
Rep. Paul Ray  
Rep. Mark A. Wheatley  
Rep. Brad Wilson

**MEMBERS ABSENT:** Rep. Chris Herrod

**STAFF PRESENT:** Jerry D. Howe, Policy Analyst  
Linda Black, Committee Secretary

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

Rep. McIff called the meeting to order at 2:05 p.m.

**MOTION:** Rep. Wheatley moved to approve the minutes of February 8, and February 9. The motion passed unanimously with Rep. Brown, Rep. Hutchings, Rep. Ray, and Rep. Gibson absent for the vote.

**H.B. 59      Arrest and Requirements - with or Without Warrants** *(Rep. S. Handy)*

Rep. Handy presented the bill to the committee with the assistance of Pat Nolan, Office of the Attorney General.

Spoke in favor of the bill:      Ken Wallentine, Utah Law Enforcement Entities  
Mr. Mark Shurtliff, State Attorney General

Spoke in opposition  
or the bill:                      Gerald Hasty, citizen  
Rob Latham, Utah Association of Criminal Defense Lawyers  
Sean Hullinger, Criminal Defense Attorney  
Terry M. Keefe, Chief of Police, Layton City  
Jeremy Roberts, citizen  
Dalane England, Eagle Forum

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

1. *Page 1, Lines 14 through 16:*

- 14           ▶ amends language regarding arrest by a peace officer to refer to "probable  
cause" rather than "reasonable cause; and  
          ▶ amends a peace officer's authority to make an arrest without a warrant upon  
15 {—reasonable} probable cause by providing that this authority includes any  
          misdemeanor, rather  
16 than current law which grants the authority to arrest upon  
          {—reasonable} probable cause to class

2. *Page 2, Lines 36 through 37:*

- 36           (2) when the peace officer has {—reasonable} probable cause to believe a  
          felony or a [class A]  
37 misdemeanor has been committed and has {—reasonable} probable cause to  
          believe that the person arrested

3. *Page 2, Lines 39 through 40:*

- 39           (3) when the peace officer has {—reasonable} probable cause to believe the  
          person has committed a  
40 public offense, and there is {—reasonable} probable cause for believing the  
          person may:

4. *Page 2, Line 44:*

- 44           (4) when the peace officer has {—reasonable} probable cause to believe the  
          person has committed

The motion passed unanimously with Rep. Brown, Rep. Hutchings, Rep. King, Rep. Ray, and Rep. Gibson absent for the vote.

MOTION: Rep. Biskupski moved to move to the next item on the agenda.

SUBSTITUTE

MOTION: Rep. Gibson moved to pass the bill with a favorable recommendation. The motion failed with Rep. Brown, Rep. Wilson, and Rep. Gibson voting in favor.

The original motion to move to the next item on the agenda passed unanimously, with Rep. Herrod absent for the vote.

**S.B. 104      Probate Law Amendments (*Sen. J. Valentine*)**

Sen. Valentine presented the bill to the committee.

MOTION:      Rep. Ivory moved to pass the bill with a favorable recommendation.  
                    The motion passed unanimously with Rep. Ray absent for the vote.

**S.B. 28      Alcohol or Drug Related Offense Amendments (*Sen. S. Jenkins*) (handout)**

Sen. Jenkins presented the bill to the committee with the assistance of Jacey Skinner,  
Commission on Criminal and Juvenile Justice.

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

1. *Page 4, Lines 99 through 101:*

99            [(iii)]    {~~(3)~~}    (4)    The Driver License Division shall suspend or revoke the  
                    license of a person  
100          as ordered by the court under Subsection [(2)]    {~~(9)~~}    (10) .  
101          [(b)]      {~~(4)~~}    (5)    The Driver License Division shall;

2. *Page 4, Line 111:*

111          [(e)]      {~~(5)~~}    (6)    The Driver License Division shall subtract from any  
                    suspension or revocation

3. *Page 4, Line 115:*

115          [(d)]      {~~(6)~~}    (7)    If a conviction recorded as impaired driving is amended to a  
                    driving under the

4. *Page 5, Line 122*  
*Senate 2nd Reading Amendments*  
*2-4-2011:*

122            {~~(7)~~}    (8)    A court that reported a conviction of a violation of Section  
                    41-6a-502 for a

5. *Page 5, Line 132*  
*a. Senate 2nd Reading Amendments*  
*b. 2-4-2011:*

132          {~~(7)~~}    (8)    (b):

6. Page 5, Line 134

Senate 2nd Reading Amendments  
2-4-2011:

134 under Subsection ~~{(7)}~~ (8) (c);

7. Page 5, Line 136

Senate 2nd Reading Amendments  
2-4-2011:

136 assessment under Subsection ~~{(7)}~~ (8) (c) or the court does not order substance  
abuse treatment;

8. Page 5, Line 149 through Page 6, Line 150

a. Senate 2nd Reading Amendments  
b. 2-4-2011:

149 ~~{(8)}~~ (9) If the court shortens a person's license suspension period in  
accordance with the

150 requirements of Subsection ~~{(7)}~~ (8) , the court shall forward the order shortening  
the person's

9. Page 6, Line 153:

153 ~~{(2)}~~ ~~{(9)}~~ (10) (a) (i) In addition to any other penalties provided in this  
section, a court may

10. Page 6, Line 157:

157 (ii) The additional suspension or revocation period provided in this Subsection ~~{(2)}~~  
~~{(9)}~~ (10)

11. Page 6, Line 160:

160 (b) If the court suspends or revokes the person's license under this Subsection ~~{(2)}~~  
~~{(9)}~~ (10) ,

12. Page 6, Line 163:

163 ~~{(3)}~~ ~~{(10)}~~ (11) (a) The court shall notify the Driver License Division if a  
person fails to:

13. Page 6, Line 171:

171 (b) Upon receiving the notification described in Subsection [(↔)]  
{~~(10)~~} (11) (a), the division

14. Page 12, Line 345:

345 (A) {+} 18 months {+} {~~two years if the arrest was made on or after  
July 1, 2011, and~~} unless

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

Spoke in favor of the bill: Rick Schwermer, Deputy Director, Administrative Office of the  
Courts

Spoke in opposition  
of the bill: Thomas Terry, citizen

MOTION: Rep. Ray moved pass the bill, as amended, with a favorable recommendation.  
The motion passed unanimously with Rep. Wilson absent for the vote.

**H.B. 48 Fingerprints of Juveniles** (Rep. J. Peterson)

Rep. J. Peterson presented the bill to the committee.

MOTION: Rep. Biskupski moved to replace 1st Substitute H.B. 48 with 2nd Substitute H.B.  
48. The motion passed unanimously with Rep. Christensen, Rep. Ivory, Rep.  
Ray, and Rep. Wilson absent for the vote.

Spoke to the bill: Ron Gordon, Executive Director, CCJJ  
Rick Schwermer, Deputy Director, Administrative Office of the Courts

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

1. Delete on Page 3, Lines 66 through 72

**SUBSTITUTE**

MOTION: Rep. Biskupski moved to table the bill. The substitute motion failed with Rep.  
Brown, Rep. Christensen, Rep. Cox, Rep. Hutchings, Rep. Ray, and Rep. Gibson  
voting in opposition.

The original motion by Rep. Cox failed with Rep. Biskupski, Rep. Brown, Rep. King, Rep. Ray,  
Rep. Wheatley, Rep. Gibson, and Chair McIff voting in opposition.

MOTION: Rep. Biskupski moved to table 1st Substitute H.B. 48. The motion failed, with Rep. Brown, Rep. Christensen, Rep. Cox, Rep. Hutchings, Rep. Ray, and Rep. Gibson voting in opposition. Rep. Ivory and Rep. Wilson were absent for the vote.

MOTION: Rep. Ray moved to move to the next item on the agenda. The motion passed with Rep. Gibson voting in opposition. Rep. Ivory and Rep. Wilson were absent for the vote.

Rep. McIff relinquished the chair to Rep. Gibson.

**H.B. 272 Indigent Defense Act Amendments** (*Rep. K. McIff*)

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

1. *Page 3, Lines 85 through 87:*

- 85 (vi) other factors considered relevant by the court. {  
86 ~~(c) In determining the reasonableness of the fees and expenses charged by~~  
~~privately~~  
87 ~~retained defense counsel, the court shall consider the provisions of Section~~  
~~77-32-304.5.~~}

The motion passed unanimously with Rep. Ivory and Rep. Wilson absent for the vote.

Rep. McIff presented the bill to the committee.

Spoke to the bill: Adam Trupp, Utah Association of Counties  
Rob Latham, Utah Association of Criminal Defense Lawyers

MOTION: Rep. King moved to pass the bill, as amended, with a favorable recommendation. The motion passed unanimously with Rep. Ivory and Rep. Wilson absent for the vote.

MOTION: Rep. Ray moved to adjourn the meeting. The motion to adjourn passed unanimously with Rep. Ivory and Rep. Wilson absent for the vote.

Rep. Gibson adjourned the meeting at 5:40 p.m.