

**MINUTES OF THE
SENATE JUDICIARY, LAW ENFORCEMENT & CRIMINAL JUSTICE
STANDING COMMITTEE MEETING
FEBRUARY 23, 2011, 4:00 PM
ROOM 250, STATE CAPITOL**

Members Present: Sen. Mark B. Madsen, Committee Chair
Sen. Steve H. Urquhart
Sen. Michael G. Waddoups
Sen. Ben McAdams
Sen. Ross I. Romero

Members Absent: Sen. Lyle W. Hillyard

Staff Present: Jerry Howe, Policy Analyst
Kathy Helgesen, Committee Secretary

Public Speakers Present: Rep. Jeremy Peterson
Mark Shurtleff, Attorney General, State of Utah
Paul Mero, Sutherland Institute
Lance Davenport, Commissioner, Utah Department of Public Safety
Marina Lowe, Legislative and Policy Council, ACLU
James Humphreys, Vice President, Utah Log Cabin Republicans
Michael Sanchez, Utah Minuteman Project
Wesley Smith, Director of Public Policy, Salt Lake Chamber
Mark Alvarez, United for Social Justice
James Evans, former Utah State senator and chair of Republican Party
Robert Wren, Utahns for Immigration Reform and Enforcement
Michael Clara, Chair, Utah Republican Hispanic Assembly
Nathan Goodman
Rick Schwermer, Administrative Office of the Court

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

Committee Chair Madsen called the meeting to order at 4:32 p.m.

MOTION: Sen. Romero moved to approve the minutes of February 16, 2011.

The motion passed unanimously with Sen. Urquhart, Sen. Waddoups, and Sen. McAdams absent for the vote.

1. **SB0060 - Pilot Accountability Permit Program and Identity Related Amendments (L. Robles)**

MOTION: Sen. Romero moved to delete in title and body S.B. 60 and replace it with 1st Substitute S.B. 60 and also adopt Amendment 1 as follows:

1. *Page 2, Lines 51 through 54:*

- 51 • requiring the establishment of a database; **and**
52 • providing for the sharing of information with federal agencies under certain
53 circumstances; **{and}**
 ▶ **directs the Fraudulent Documents Identification Unit to administer a new**
 Identity Theft Victims Restricted Account; and
54 ▶ makes technical and conforming amendments.

2. *Page 3, Lines 69 through 70:*

- 69 63J-1-602.3, as enacted by Laws of Utah 2010, Chapter 265
 = **67-5-22.7, as enacted by Laws of Utah 2009, Chapter 30**
70 76-10-526, as last amended by Laws of Utah 2010, Chapter 62

3. *Page 11, Lines 325 through 331:*

- 325 (c) the attorney general for costs associated with:
326 (i) a multi-agency strike force created under Section 67-5-22.7; {or}
327 (ii) a memorandum of understanding executed under Section 67-5-28;
 (iii) the Fraudulent Documents Identification Unit created in Section 67-5-22.7; or
 (iv) the Identity Theft Victims Restricted Account created in Subsection
 67-5-22.7(5);
328 (d) the State Office of Education for costs associated with implementing Section
329 53-16-308; or
330 (e) fund the costs associated with Title 76, Chapter 8, Part 15, Identity Enforcement
331 Act.

4. *Page 11, Line 334 through Page 12, Line 353:*

- 334 (1) (a) If a waiver, exemption, or authority described in Section 53-16-202 does not
335 provide for the issuance of a Social Security number to a permit holder, the State Tax
336 Commission shall by rule made in accordance with Title 63G, Chapter 3, Utah
 Administrative
337 Rulemaking Act, provide a means for a person who receives services from a permit holder
 to
338 withhold from compensation paid to the permit holder an amount to be determined by
 State

339 Tax Commission rule that, as closely as possible, equals the income ~~{and~~
340 ~~employment}~~ taxes that
341 would be imposed by state law if the permit holder were an employee with a Social
342 Security
343 number.
344 (b) If a waiver, exemption, or authority described in Section 53-16-202 provides for
345 the
346 issuance of a Social Security number to a permit holder, a person who receives services
347 from a
348 permit holder is required to withhold from compensation as provided in Title 59, Chapter
349 10,
350 Part 4, Withholding of Tax.
351 (2) The rules described in Subsection (1)(a) shall be substantially similar to Title 59,
352 Chapter 10, Part 4, Withholding of Tax.
353 (3) To the extent feasible and consistent with a waiver, exemption, or authority
354 entered
355 into under Section 53-16-202, the State Tax Commission shall work with the applicable
356 federal
357 government agencies to ensure that the withholding provided for under Subsection (2) is
358 compatible with a federal process by which the **federal government collects**
359 **federal** income and employment taxes ~~{are collected}~~
360 that would be imposed under federal law if a permit holder were an employee with a
361 Social
362 Security number.

5. *Page 45, Line 1360:*

1360 Section 35. Section **76-8-1501** is enacted to read:

INSERT SECTION HERE

6. *Page 45, Line 1389 through Page 46, Line 1390:*

1389 (C) a tribal treaty card.

= **Section 37. Section 67-5-22.7 is amended to read:**

67-5-22.7. Multi-agency strike force to combat violent and other major felony crimes associated with illegal immigration and human trafficking -- Fraudulent Documents Identification Unit.

(1) The Office of the Attorney General is authorized to administer and coordinate the operation of a multi-agency strike force to combat violent and other major felony crimes committed within the state that are associated with illegal immigration and human

trafficking.

(2) The office shall invite officers of the U.S. Immigration and Customs Enforcement and state and local law enforcement personnel to participate in this mutually supportive, multi-agency strike force to more effectively utilize their combined skills, expertise, and resources.

(3) The strike force shall focus its efforts on detecting, investigating, deterring, and eradicating violent and other major felony criminal activity related to illegal immigration and human trafficking.

(4) In conjunction with the strike force and subject to available funding, the Office of the Attorney General shall establish a Fraudulent Documents Identification Unit:

(a) for the primary purpose of investigating, apprehending, and prosecuting individuals or entities that participate in the sale or distribution of fraudulent documents used for identification purposes; ~~{-and-}~~

(b) to specialize in fraudulent identification documents created and prepared for individuals who are unlawfully residing within the state ~~{-}~~ ; and

= (c) to administer the Identity Theft Victims Restricted Account created under Subsection (5).

(5) (a) There is created a restricted account in the General Fund known as the "Identity Theft Victims Restricted Account."

(b) The Identity Theft Victims Restricted Account shall consist of money appropriated to the Identity Theft Victims Restricted Account by the Legislature.

(c) Subject to appropriations from the Legislature, the Fraudulent Documents Identification Unit may expend the money in the Identity Theft Victims Restricted Account to pay a claim as provided in this Subsection (5) to a person who is a victim of identity theft prosecuted under Section 76-6-1102 or 76-10-1801.

(d) To obtain restitution from the Identity Theft Victims Restricted Account, a person shall file a claim with the Fraudulent Documents Identification Unit by no later than one year after the day on which an individual is convicted, pleads guilty, pleads no contest to, pleads guilty in a similar manner to, or resolved by diversion or its equivalent an offense under Section 76-6-1102 or 76-10-1801 for the theft of the identity of the person filing the claim.

(e) A claim filed under this Subsection (5) shall include evidence satisfactory to the Fraudulent Documents Identification Unit:

(i) that the person is the victim of identity theft described in Subsection (5)(d); and

(ii) of the actual damages experienced by the person as a result of the identity theft that are not recovered from a public or private source.

(f) The Fraudulent Documents Identification Unit shall pay a claim of restitution from the Identity Theft Victims Restricted Account:

(i) if the Fraudulent Documents Identification Unit determines that the person has provided sufficient evidence to meet the requirements of Subsection (5)(e);

(ii) in the order that claims are filed with the Fraudulent Documents Identification Unit; and

(iii) to the extent that there is money in the Identity Theft Victims Restricted Account.

(g) If there is insufficient money in the Identity Theft Victims Restrict Account when a claim is filed under this Subsection (5) to pay the claim in full, the Fraudulent Documents Identification Unit may pay a claim when there is sufficient money in the account to pay the claim.

~~{(5)}~~ **(6)** The strike force shall make an annual report on its activities to the governor and the Legislature's Law Enforcement and Criminal Justice Interim Committee by December 1, together with any proposed recommendations for modifications to this section.

1390 Section 37. Section **76-8-1503** is enacted to read:

Renumber remaining sections accordingly.

The motion passed unanimously with Sen, Urquhart, Sen. Waddoups, and Sen. McAdams absent for the vote.

Sen. Robles presented the bill.

Rep. Peterson, Mr. Shurtleff, Mr. Mero, Mr. Davenport, Mr. Humphreys, Mr. Smith, Mr. Evans, and Mr. Clara spoke in favor of the bill.

Ms. Lowe, Mr. Sanchez, Mr. Alvarez, and Mr. Wren spoke in opposition to the bill.

MOTION: Sen. Romero moved to pass 1st Substitute S.B. 60 as amended with a favorable recommendation.

The motion passed 3-2-1 with Sen. Urquhart and Sen. Waddoups voting in opposition to the bill.

2. **SB0116 - Homestead Exemption Modification (S.Urquhart)**

The bill was not addressed.

3. **SB0176- Candidate Party Affiliation (B. McAdams)**

Sen. McAdams presented the bill.

Mr. Goodman spoke in favor of the bill.

MOTION: Sen. Romero moved to pass S.B. 176 with a favorable recommendation.

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

4. **SB0238- Verification of Employment Status (D. Hinkins)**

The bill was not discussed.

5. **SB0248 - Controlled Substance Database Amendments(C.Bramble)**

Sen. Bramble presented the bill.

MOTION: Sen. McAdams moved to adopt Amendment 2 as follows:

1. *Page 1, Lines 22 through 23:*

22 Other Special Clauses:

23 ~~{None}~~ **This bill takes effect on January 1, 2012.**

2. *Page 5, Lines 125 through 131:*

125 (j) the following licensed physicians for the purpose of reviewing and offering an
126 opinion on an individual's request for workers' compensation benefits under Title 34A,
Chapter

127 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:

128 (i) a member of the medical panel described in Section 34A-2-601; or

129 ~~{(ii) the medical director for the Labor Commission;}~~

130 ~~{(iii) the medical director for a workers' compensation insurer;}~~ ~~{or}~~

131 ~~{(iv) the medical director for a self-insured employer;}~~ ~~{and}~~ =

~~{(v)}~~ (ii) a physician offering a second opinion regarding treatment; and

3. *Page 6, Lines 153 through 160:*

153 ~~{Section 2. Section 58-37f-704 is enacted to read:~~

154 ~~58-37f-704. Requirement to check controlled substance database.~~

155 ~~A licensed physician shall review the database before writing a first prescription~~

- to a
156 patient for a schedule H or schedule HH controlled substance to determine if there is
evidence
157 relating to the patient of:
158 —(1) prescription duplication;
159 —(2) drug over-use; or
160 —(3) drug abuse.}

Section 2. Effective Date
This bill takes effect on January 1, 2012.

The motion passed unanimously with Sen. Waddoups and Sen. Romero absent for the vote.

MOTION: Sen. McAdams moved the amend as follows:

1. *Page 5, Lines 131 through 133:*

- 131 (iv) the medical director for a self-insured employer {~~;~~ and
132 —(k) a physician for the purpose of checking for prescription duplication, drug
over-use;
133 or drug abuse pursuant to Section 58-37f-704} .

The motion passed unanimously with Sen. Waddoups and Sen. Romero absent for the vote.

MOTION: Sen. McAdams moved to pass S.B. 248, as amended, with a favorable recommendation.

The motion passed unanimously with Sen. Waddoups and Sen. Romero absent for the vote.

6. **HB0074S01- Municipal Justice Court Judge Elections (K. Sumsion)**

Rep. Sumsion presented the bill.

Mr. Schwermer spoke in favor of the bill.

MOTION: Sen. McAdams moved to pass 1st Substitute H.B. 74 with a favorable recommendation

The motion passed unanimously with Sen. Waddoups and Sen. Romero absent for the vote.

7. **HB0075S01 - Dangerous Weapon Amendments (C. Oda)**

Rep. Oda presented the bill.

MOTION: Sen. Urquhart moved to pass 1st Substitute H.B. 75 with a favorable recommendation.

The motion passed unanimously with Sen. Waddoups and Sen. Romero absent for the vote.

MOTION: Sen. McAdams moved to adjourn.

The motion passed unanimously with Sen. Waddoups and Sen. Romero absent for the vote.

The meeting adjourned at 6:15 p.m.

Sen. Mark B. Madsen, Committee Chair