

**MINUTES OF THE  
HOUSE JUDICIARY STANDING COMMITTEE MEETING  
Room 20, West Office Building  
February 14, 2012**

**MEMBERS PRESENT:** Rep. Kay McIff, Chair  
Rep. LaVar Christensen, Vice Chair  
Rep. Derek Brown  
Rep. Fred Cox  
Rep. Brian Doughty  
Rep. Chris Herrod  
Rep. Ken Ivory  
Rep. Brian King  
Rep. V. Lowry Snow  
Rep. Mark A. Wheatley  
Rep. Brad Wilson

**MEMBERS ABSENT:** Rep. Eric Hutchings  
Rep. Paul Ray

**STAFF PRESENT:** Mr. Jerry D. Howe, Policy Analyst  
Ms. 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 10, 2012. The motion passed unanimously, with Rep. Brown, Rep. Herrod, and Rep. King absent for the vote.

**H.B. 405      *Jury Service Amendments (Rep. C. Watkins)***

Rep. Watkins presented the bill to the committee.

**MOTION:** Rep. Cox moved to pass the bill out favorably. The motion passed unanimously. Rep. Brown was absent for the vote.

**H.B. 141      *State Sovereignty and Rights of Set-off (Rep. L. Christensen)***

Rep. Christensen presented the bill to the committee.

**MOTION:** Rep. Wilson moved to amend the bill.

**SUBSTITUTE**

**MOTION:** Rep. King moved to amend the bill as follows:

1. Page 1, Lines 16 through 21:

16       ▶ reserves all rights of the state to claim a credit or set-off for any amount  
          inequitably or unlawfully claimed by the federal government.   {~~the~~  
          state  
17   ~~may incur due to the loss or wrongful withholding of its public lands or for the~~  
18   ~~incarceration of illegal aliens that are not reimbursed by the federal government~~  
19   ~~against any amount that the state is claimed to owe the federal government; and~~  
20   ~~—▶ provides that the state is relieved of all liability for the payment of funds~~  
          owed to  
21   ~~the federal government for which the state exercises its rights of set-off.~~}

2. Page 2, Lines 38 through 47:

38   the State of Utah against any amounts   it claims to have been inequitably or  
          unlawfully imposed by the federal government.   {~~the state may be~~  
          ~~unlawfully claimed to owe the federal government.~~  
          (2) The state may exercise and apply as a credit, any amounts the state incurs due to  
          the  
39   ~~violation of the state's sovereign powers or other acts and omissions of the federal~~  
40   ~~government;~~  
41   including:  
42   ~~—(a) all costs and damages sustained by the state due to the loss or wrongful~~  
          ~~withholding~~  
43   ~~of its public lands; and~~  
44   ~~—(b) all costs of incarceration of illegal aliens for crimes committed in the state if~~  
          ~~and to~~  
45   ~~such extent as those costs are not fully reimbursed by the federal government.~~  
46   ~~—(3) The state is not liable for any amounts or federal claims which are subject to~~  
          ~~this~~  
47   ~~section or other legal and equitable protections of the state's interests.~~}

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

**MOTION:** Rep. Wilson moved to pass the bill out favorably as amended. The motion passed. Rep. Wilson was absent for the vote.

**H.B. 107 Joint Custody Modifications** (*Rep. G. Froerer*)

Rep. Froerer presented the bill to the committee.

**MOTION:** Rep. Wilson moved to replace H.B. 107 with 1st Substitute H.B. 107. The motion passed unanimously. Rep. Brown was absent for the vote.

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

1. *Page 2, Line 45 through Page 3, Line 58:*

45 (b) [~~The court shall, in every case, consider joint custody but may award any form of~~  
46 ~~custody which is determined to be~~] There shall be a rebuttable presumption that joint legal  
47 custody, as defined in Section 30-3-10.1, is in the best interest of the child[-], so long as  
the  
48 party who desires joint legal custody files a proposed parenting plan in accordance with  
49 Sections 30-3-10.8 and 30-3-10.9. The presumption may be rebutted by a showing by a  
50 preponderance of the evidence that the following circumstances exist:  
51 { ~~(i) the parents were not married to each other;~~ }  
52 { ~~(ii)~~ } (i) domestic violence in the home or in the presence of the child;  
53 { ~~(iii)~~ } (ii) special physical or mental needs of a parent or child, making joint  
legal custody  
54 unreasonable;  
55 { ~~(iv)~~ } (iii) physical distance between the residences of the parents, making  
joint decision  
56 making impractical in certain circumstances; or  
57 { ~~(v)~~ } (iv) any other factor the court considers relevant, including those  
listed in Section  
58 30-3-10.2.

The motion passed unanimously. Rep. Brown was absent for the vote.

Chair McIff relinquished the gavel to Vice Chair Christensen at 3:15 p.m.

Spoke in favor of the bill: Mr. Justin Traver, citizen  
Mr. Jeff Rifleman, citizen  
Ms. Jackie de Gaston, citizen  
Mr. Dan Duell, Weber Co. Nine-Eleven Project  
Mr. Eric Durtschi, citizen

Mr. Grant Durtschi, citizen  
Ms. Mary Durtschi, citizen  
Mr. Eric Johnson, citizen  
Mr. Stewart Ralphs, Legal Aid Society of Salt Lake City

Spoke to the bill: Mr. Todd Stone, citizen

Chair McIff resumed the chair at 3:40 p.m.

**MOTION:** Rep. Christensen moved to amend the bill as follows:

*1. Page 2, Line 45 through Page 3, Line 58:*

45 (b) ~~[The court shall, in every case, consider joint custody but may award any form of~~  
46 ~~custody which is determined to be]~~ There shall be a rebuttable presumption that joint legal  
47 custody, as defined in Section 30-3-10.1, is in the best interest of the child[-], so long as  
the  
48 party who desires joint legal custody files a proposed parenting plan in accordance with  
49 Sections 30-3-10.8 and 30-3-10.9. The presumption may be rebutted by a showing by a  
50 preponderance of the evidence that the following circumstances exist:  
51 ~~{(i) the parents were not married to each other;}~~  
52 ~~{(ii)}~~ (i) domestic violence in the home or in the presence of the child;  
53 ~~{(iii)}~~ (ii) special physical or mental needs of a parent or child, making joint  
legal custody  
54 unreasonable;  
55 ~~{(iv)}~~ (iii) physical distance between the residences of the parents, making  
joint decision  
56 making impractical in certain circumstances; or  
57 ~~{(v)}~~ (iv) any other factor the court considers relevant, including those  
listed in Section  
58 30-3-10.2.

The motion passed unanimously.

**MOTION:** Rep. Wilson moved to pass the bill out favorably as amended. The motion passed unanimously.

The following bills were not heard:

**H.B. 130**      **Custodial Interference Amendments** (*Rep. G. Froerer*)

**H.B. 235**      **Offer of Judgment in Civil Cases** (*Rep. K. Ivory*)

**H.B. 236**      **Alimony Modifications** (*Rep. S. Sandstrom*)

**MOTION:**    Rep. Ivory moved adjourn the meeting. The motion passed unanimously.

Chair McIff adjourned the meeting at 3:55 p.m.

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Rep. Kay McIff, Chair