

**MINUTES OF THE
HOUSE JUDICIARY STANDING COMMITTEE MEETING**
20 House Building, Utah State Capitol Complex
February 21, 2014

Members Present: Rep. Kay L. McIff, Chair
Rep. Lee B. Perry, Vice Chair
Rep. Patrice Arent
Rep. LaVar Christensen
Rep. Brian M. Greene
Rep. Craig Hall
Rep. Eric K Hutchings
Rep. Brian S. King
Rep. V. Lowry Snow

Staff Present: Ms. Chelsea Lloyd, Policy Analyst
Ms. Linda Black, Committee Secretary

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

Chair McIff called the meeting to order at 2:13 p.m.

MOTION: Rep. Arent moved to approve the minutes of February 19, 2014 meeting. The motion passed unanimously with Rep. Hall, Rep. Hutchings, Rep. Snow and Rep. Perry absent for the vote.

1st Sub. H.B. 213 Criminal Penalties for Sexual Contact with a Student (Rep. L. Christensen)

Rep. Christensen explained the bill to the committee.

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

1. *Page 1, Line 15:*

15 of the term "position of special trust" and clarifying that the definition of a teacher includes

2. *Page 3, Line 58:*

58 older than the minor or holds a relationship of special trust as an adult teacher, employee, or volunteer, as described in Subsection 76-5-404.1(c)(xix) and, under circumstances not amounting to rape, in violation of Section

3. *Page 3, Line 85:*

85 reasonably should have known the age of the minor; ~~{or}~~

4. *Page 3, Line 87:*

87 in any conduct listed in Subsection (2)(b) ; or
(iii) or holds a relationship of special trust as an adult teacher, employee, or
volunteer, as described in Subsection 76-5-404.1(c)(xix) .

The motion passed unanimously with Rep. Hall, Rep. Hutchings, Rep. Perry, and Rep. Snow absent for the vote.

Spoke to the bill: Mr. Daniel Harper, General Counsel, Canyon School District

MOTION: Rep. King moved to pass the bill out favorably as amended. The motion passed unanimously with Rep. Greene, Rep. Hall, and Rep. Snow absent for the vote.

2nd Sub. H.B. 256 Adoption Records Access Amendments (Rep. J. Nielson)

Rep. Nielson explained the bill to the committee and provided a handout, "H.B. 256, Adoption Records Access Amendments" to the committee.

MOTION: Rep. Arent moved to replace 1st Substitute H.B. 256 with 2nd Substitute H.B. 256. The motion passed unanimously with Rep. Greene and Rep. Perry absent for the vote.

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

1. *Page 5, Lines 121 through 125:*

121 has demonstrated a direct, tangible, and legitimate interest.

122 (3) (a) For purposes of this Subsection (3), "adoption documents" is as defined in
123 Section 78B-6-103.

124 (b) Only the Office of Vital Records and Statistics or a ~~{Utah district}~~ court
may issue

125 adoption documents.

2. *Page 8, Lines 215 through 219:*

215 any other person with respect to the child.

216 (3) "Adoption documents" means adoption-related documents filed with a ~~{Utah~~
district}

217 court or with the office, including a petition for adoption, the written report described in

218 Section 78B-6-135, any other documents filed in connection with the petition, and a
219 decree of
adoption.

3. *Page 14, Line 405 through Page 15, Line 432:*

405 (3) (a) Except as provided in Subsection (3)(b), for an adoption finalized on or after
406 January 1, 2015, the office shall make the adoption documents available for inspection and
407 copying to a party to the adoption proceeding if the party who requests the documents:

408 (i) is an adult at the time of the request; and

409 (ii) makes the request on a form designated by the office.

410 (b) Subject to ~~{Subsections}~~ Subsection (3)(d) ~~{and (e)}~~ , for an
adoption finalized on or after January

411 1, 2015, a birth mother may, at or after the time of finalization, file a written document
with the

412 office stating that she refuses to permit identifying information about the birth mother to
be
413 made available for inspection or copying.

414 (c) Subject to ~~{Subsections}~~ Subsection (3)(d) ~~{and (e)}~~ , if a birth
mother elects, under Subsection

415 (3)(b), to refuse to permit identifying information about the birth mother to be made
available

416 for inspection or copying, the office shall, before providing copies of the adoption
documents

417 to an individual other than the birth mother, redact all identifying information about the
birth

418 mother.

419 (d) ~~{Subject to Subsection (3)(e),}~~ ~~{a}~~ A birth mother may, at any
time, file a written

420 document with the office to:

421 (i) change the election described in Subsection (3)(b); or

422 (ii) elect to make other information about herself, including an updated medical
423 history, available for inspection and copying by a party to the adoption proceeding if the
party

424 who requests the information is an adult at the time of the request.

425 ~~{(e) (i) If the birth mother is a minor at the time of finalization, only the birth~~
~~mother's~~

426 ~~parent or legal guardian may consent to and sign the birth mother's written refusal~~
427 ~~under~~
428 ~~Subsection (3)(b).~~
429 ~~—(ii) If the birth mother is a minor at the time she decides to change the election~~
430 ~~or make~~
431 ~~other information about herself available under Subsection (3)(d), only the birth~~
432 ~~mother's~~
433 ~~parent or legal guardian may consent to and sign the birth mother's written election~~
434 ~~under~~
435 ~~Subsection (3)(d).}~~
436 [(2) The] (4) Except as otherwise provided in this section, the adoption documents

The motion passed unanimously with Rep. Greene and Rep. Perry absent for the vote.

MOTION: Chair McIff moved to further amend the bill as follows:

1. *Page 2, Lines 54 through 55:*

54 78B-6-116, as renumbered and amended by Laws of Utah 2008, Chapter 3
= 78B-6-124, as last amended by Laws of Utah 2008, Chapter 137 and renumbered
and amended by Laws of Utah 2008, Chapter 3
55 78B-6-141, as last amended by Laws of Utah 2012, Chapter 340

2. *Page 5, Lines 121 through 125:*

121 has demonstrated a direct, tangible, and legitimate interest.
122 (3) (a) For purposes of this Subsection (3), "adoption documents" is as defined in
123 Section 78B-6-103.
124 (b) Only the Office of Vital Records and Statistics or a ~~{Utah district}~~ court
may issue
125 adoption documents.

3. *Page 8, Lines 215 through 220:*

215 any other person with respect to the child.
216 (3) "Adoption documents" means adoption-related documents filed with a ~~{Utah~~
~~district}~~
217 court or with the office, including a petition for adoption, the written report described in
218 Section 78B-6-135, any other documents filed in connection with the petition, and a
decree of

219 adoption.
220 [~~3~~] (4) "Adoption service provider" means a:

4. *Page 13, Lines 391 through 392:*

391 (7) A court may, based on a finding of good cause, waive the notification
requirement
392 described in Subsection (6).

= **Section 8. Section 78B-6-124 is amended to read:**

78B-6-124. Persons who may take consents and relinquishments.

(1) A consent or relinquishment by a birth mother or an adoptee shall be signed
before:

- (a) a judge of any court that has jurisdiction over adoption proceedings;
- (b) subject to Subsection (6), a person appointed by the judge described in

Subsection (1)(a) to take consents or relinquishments; or

(c) subject to Subsection (6), a person who is authorized by a child-placing agency to
take consents or relinquishments, if the consent or relinquishment grants legal custody of
the child to a child-placing agency or an extra-jurisdictional child-placing agency.

(2) If the consent or relinquishment of a birth mother or adoptee is taken out of state
it shall be signed before:

(a) subject to Subsection (6), a person who is authorized by a child-placing agency to
take consents or relinquishments, if the consent or relinquishment grants legal custody of
the child to a child-placing agency or an extra-jurisdictional child-placing agency;

(b) subject to Subsection (6), a person authorized or appointed to take consents or
relinquishments by a court of this state that has jurisdiction over adoption proceedings;

(c) a court that has jurisdiction over adoption proceedings in the state where the
consent or relinquishment is taken; or

(d) a person authorized, under the laws of the state where the consent or
relinquishment is taken, to take consents or relinquishments of a birth mother or adoptee.

(3) The consent or relinquishment of any other person or agency as required by
Section 78B-6-120 may be signed before a Notary Public or any person authorized to take
a consent or relinquishment under Subsection (1) or (2).

**(4) (a) At the time of a birth mother's consent to adoption of a child, or
relinquishment of a child for adoption, a person authorized by Subsection (1) or (2) to
take consents or relinquishments shall notify the birth mother that adoption
documents shall be made available for inspection and copying in accordance with
Subsection 78B-6-141(3), unless the birth mother declines to permit identifying**

information to be made available for inspection and copying.

(b) If the birth mother declines to permit identifying information to be made available for inspection and copying, the person authorized by Subsection (1) or (2) to take consents or relinquishments shall assist the birth mother with filing a written document that states the birth mother's refusal in accordance with Subsection 78B-6-141(3).

~~{(4)}~~ (5) A person, authorized by Subsection (1) or (2) to take consents or relinquishments, shall certify to the best of his information and belief that the person executing the consent or relinquishment has read and understands the consent or relinquishment and has signed it freely and voluntarily.

~~{(5)}~~ (6) A person executing a consent or relinquishment is entitled to receive a copy of the consent or relinquishment.

~~{(6)}~~ (7) A signature described in Subsection (1)(b), (1)(c), (2)(a), or (2)(b), shall be:

(a) notarized; or

(b) witnessed by two individuals who are not members of the birth mother's or the signatory's immediate family.

Renumber remaining sections accordingly.

5. *Page 14, Line 412 through Line 415:*

412 office stating that she ~~{refuses}~~ declines to permit identifying information about the birth mother to be

413 made available for inspection or copying.

414 (c) Subject to ~~{Subsections}~~ Subsection (3)(d) ~~{and(e)}~~ , if a birth mother elects, under Subsection

415 (3)(b), to ~~{refuse}~~ decline to permit identifying information about the birth mother to be made available

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

Spoke for the bill: Ms. Becky Davis, Utah Adoption Council
Ms. Penny Bivins, representing herself
Ms. Laura Plain, representing herself
Ms. Belinda Collins, representing herself
Mr. Paul Welsh, representing himself
Ms. Charlotte Staten, representing herself

Spoke to the bill: Ms. Laura Bunker, United Families International

MOTION: Rep. Arent moved to pass the bill out favorably as amended. The motion passed with Rep. Christensen voting in opposition.

1st Sub. H.B. 268 Dangerous Weapons Amendments (Rep. B. Greene)

Rep. Greene explained the bill to the committee.

MOTION: Rep. Greene moved to reconsider the committee's actions on Amendment #2 from the February 13, 2014 meeting. The motion passed unanimously.

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

1. *Page 1, Lines 9 through 16:*

9 This bill redefines dangerous weapon {~~and exempts~~} , clarifies restrictions
relating to dangerous weapons, and establishes exemptions for the use of
archery equipment {~~from the~~
10 definition} for hunting and target shooting .

11 Highlighted Provisions:

12 This bill:

13 ▶ defines dangerous weapon as a firearm or an object which is used unlawfully to
14 inflict serious bodily injury;

15 ▶ {~~exempts archery equipment, including crossbows, from the definition of~~
dangerous

16 weapon} clarifies the criminal culpability of transferring a dangerous weapon to
a restricted person ;

▶ provides that a restricted person may own, possess, or have under the
person's custody or control, archery equipment, including crossbows, for the purpose
of lawful hunting and target shooting; and

2. *Page 4, Lines 88 through 101:*

88 (6) (a) "Dangerous weapon" means:

89 (i) a firearm; or

90 (ii) an {~~item~~} object that in the manner of its {~~unlawful~~} use or
intended {~~unlawful~~} use is capable
91 of causing death or serious bodily injury.

92 (b) The following factors [~~shall be~~] are used in determining whether [~~a knife, or~~

93 another item] any {instrument,} object {,or thing} [not commonly known as a
dangerous weapon]
94 other than a firearm is a dangerous weapon:
95 (i) the {character of the instrument,} location and circumstances in which
the object {,or thing} was used or possessed;
(ii) the primary purpose for which the object was made ;
96 {(ii)} (iii) the character of the wound, if any, produced[,if any] by
{its} the object's unlawful use;
97 {(iii)} (iv) the manner in which the {instrument,} object {,or
thing} was unlawfully used; and
98 {(iv)} (v) the [other] lawful purposes for which the {instrument,}
object {,or thing} may be used.
99 {(c) Unless specifically identified elsewhere in this code, nothing other than a
firearm is
100 considered a de facto dangerous weapon, and a determination made pursuant to
Subsection
101 (6)(b) may be made only after an instrument, object or thing is used in an unlawful
manner.}

3. Page 6, Line 179 through Page 7, Line 187:

179 (b) physically possesses, uses, or has under the person's immediate custody or control
180 any dangerous weapon other than a firearm {while committing any felony or other
violent
181 criminal offense.} in a manner that constitutes a potential imminent threat to
public safety is guilty of a third degree felony.
182 (3) A Category II restricted person who intentionally or knowingly:
183 (a) purchases, transfers, possesses, uses, or has under the person's custody or
control[:
184 (a)] any firearm is guilty of a third degree felony; or
185 (b) physically possesses, uses, or has under the person's immediate custody or control
186 any dangerous weapon other than a firearm {while committing any felony or other
violent
187 criminal offense.} in a manner that constitutes a potential imminent threat to
public safety is guilty of a class A misdemeanor.

4. Page 9, Lines 266 through 268:

266 (2) It is not a violation of ~~{this chapter}~~ Subsection 76-10-503(2) or (3)
for a person defined in Section 76-10-503(1) to own, possess, or have under the
267 person's custody or control, archery equipment, including crossbows, for the purpose of
lawful
268 hunting ~~{or}~~ and lawful target shooting.

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

Spoke to the bill: Mr. Paul Boyden, Executive Director, Statewide Association of
Prosecutors

MOTION: Rep. Snow moved to further amend the bill. The motion was withdrawn.

MOTION: Rep. Snow moved to pass the bill out favorably as amended.

SUBSTITUTE MOTION: Rep. Arent moved to hold the bill. The motion failed with Rep.
Christensen, Rep. Greene, Rep. Hall, Rep. Snow, and Chair McIff
voting in opposition. Rep. Hutchings was absent for the vote.

Rep. Snow's original motion passed with Rep. King and Rep. Arent voting in opposition and
Rep. Hutchings absent for the vote.

Spoke to the bill: Mr. Paul Boyden, Executive Director, Statewide Association of
Prosecutors

H.J.R. 12 Joint Resolution on Appointment of Legal Counsel for Executive Officers
(Rep. M. McKell)

At the request of the sponsor, this bill was not considered.

H.B. 118 Personal Injury Damages Amendments *(Rep. K. McIff)*

Due to time constraints, this bill was not heard.

H.B. 251 Unsworn Declaration Amendments *(Rep. K. McIff)*

Due to time constraints, this bill was not heard.

MOTION: Rep. Perry moved to adjourn the meeting. The motion passed unanimously with
Rep. Hutchings absent for the vote.

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Chair McIff adjourned the meeting at 4:15 p.m.

Kay L. McIff, Chair