

**MINUTES OF THE
HOUSE JUDICIARY STANDING COMMITTEE MEETING**
20 House Building, Utah State Capitol Complex
February 10, 2015

Members Present: Rep. LaVar Christensen, Chair
Rep. Merrill Nelson, Vice Chair
Rep. Fred C. Cox
Rep. Bruce Cutler
Rep. Brian M. Greene
Rep. Craig Hall
Rep. Brian S. King
Rep. Curtis Oda
Rep. V. Lowry Snow
Rep. Kevin J. Stratton
Rep. Mark A. Wheatley

Staff Present: Mr. Gregg Girvan, Policy Analyst
Ms. Linda Black, Committee Secretary

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

Chair Christensen called the meeting to order at 4:00 p.m.

MOTION: Rep. Greene moved to approve the minutes of February 6, 2015. The motion passed unanimously with Rep. Hall, Rep. King, Rep. Snow and Rep. Stratton absent for the vote.

1st Sub. H.B. 73 Nepotism Amendments (*Rep. B. R. Cutler*)

Rep. Cutler explained the bill to the committee.

MOTION: Rep. Cutler moved to replace 1st Substitute H.B. 73 with 2nd Substitute H.B. 73, Nepotism Amendments. The motion passed unanimously with Rep. Hall, Rep. King and Rep. Snow absent for the vote.

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

H.B. 137 Change to Mandatory Retirement Age for Judges (*Rep. K. Powell*)

Rep. Powell explained the bill to the committee with the assistance of Mike Davis, Wasatch County Manager.

Spoke to the bill: Rick Schwermer, Assistant Administrator, Utah Courts

MOTION: Rep. Cutler moved to pass the bill out favorably.

SUBSTITUTE

MOTION: Rep. King moved to replace H.B. 137 with 1st Substitute H.B. 137, Change to Mandatory Retirement Age for Judges. The motion passed with Chair Christensen, Rep. Cox, and Rep. Cutler voting in opposition. Rep. Hall, Rep. Snow and Rep. Wheatley were absent for the vote.

MOTION: Rep. King moved to pass the bill out favorably as substituted. The motion passed with Chair Christensen and Rep. Oda voting in opposition. Rep. Hall, Rep. Snow and Rep. Wheatley were absent for the vote.

H.B. 46 Mechanics Lien Revisions (Rep. M. McKell)

Rep. McKell explained the bill to the committee.

MOTION: Rep. King moved to replace H.B. 46 with 1st Substitute H.B. 46, Mechanics Lien Revisions. The motion passed unanimously with Rep. Hall and Rep. Wheatley absent for the vote.

Spoke to the bill: Mike Ostermiller, American Institute of Architects

MOTION: Rep. King moved to pass the bill out favorably as substituted. The motion passed unanimously with Rep. Hall and Rep. Wheatley absent for the vote.

Vice Chair Nelson assumed the chair.

H.B. 143 Prohibition on Tattooing of Minors (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 12:*

- 12 ▶ prohibits the tattooing of persons younger than 18 years of age , except under specified circumstances, and with written parental consent, for minors 16 years of age and older ;
 ▶ provides an exception for minors for medical procedures; and

2. *Page 1, Line 14:*

14 performed on a person younger than 18 years of age if the required consent is not provided or there is not a medical exception .

3. *Page 2, Line 45:*

45 (3) (a) A person is guilty of unlawful tattooing of a minor if the person performs or offers

4. *Page 2, Lines 47 through 48:*

47 parent or legal guardian; and (c) for remuneration or in the course of a business or profession] , except as provided under Subsections (3)(b) or (c) .

(b) Subsection (3)(a) does not apply to tattoos performed:

(i) for the purpose of reconstructive surgery or for medical procedures; and

(ii) at the direction of a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(c) Subsection (3)(a) does not apply to tattoos that are performed on a minor who is 16 years of age or older if the minor's parents, the minor's parents or parent with joint or sole legal custody, or the minor's legal guardian:

(i) give written consent for the tattoo by signing a document that:

(A) states the legal name of the minor;

(B) states that the person has legal authority to give consent;

(C) states that by signing the document the person gives consent for the tattoo to be performed on the minor;

(D) is notarized; and

(E) has been provided to the person who is to perform the tattoo on the minor; and

(ii) a parent or legal guardian who signed the document giving consent, or who had authority to give the consent under this Subsection (3), is present when the tattoo is performed on the minor.

48 {~~(4)~~} (5) A person is not guilty of an offense under Subsection (2)
{~~or (3)~~} , if the person:

5. *Page 3, Lines 52 through 55:*

52 that the minor is 18 years of age or older before the person performs the body piercing
{~~or~~

53 ~~tattooing~~} .

54 {~~(5)~~} (6) (a) A person who violates Subsection (2) or (3) is guilty of a class
B misdemeanor.

55 (b) The owner or operator of a business ~~{in which}~~ where a violation of
Subsection (2) or (3)

6. Page 3, Lines 57 through 60:

57 ~~{(6)}~~ (7) (a) A person upon whom ~~{an actor}~~ a person performs
a tattoo in violation of Subsection (3)
58 has a civil cause of action ~~{under Subsection (6)(b)}~~ against the
~~{actor}~~ person performing the tattoo and against the owner or
59 operator of the business ~~{in which}~~ where the tattoo was performed ~~{—~~
violation of Subsection (3)} ~~{is committed}~~ .
60 (b) The person on whom the tattoo is performed in violation of
~~{under}~~ Subsection ~~{(6)(a)}~~ (3) may bring the civil cause of action
within three

7. Page 3, Lines 65 through 66:

65 Subsection ~~{(5)}~~ (6) (b).
66 (d) The civil cause of action under this Subsection ~~{(6)}~~ ~~{(a)}~~ (7)
may not be waived or in any

The motion passed unanimously.

Spoke for the bill: Michelle McOmber, CEO, Utah Medical Association

Spoke against the bill: Dorothy Bradford, United Women Forum
Alto Tavares, citizen

MOTION: Rep. Cutler moved to hold the bill.

SUBSTITUTE

MOTION: Rep. Hall moved to extend the discussion. The motion passed unanimously with
Rep. Greene absent for the vote.

MOTION: Rep. Stratton moved to hold the bill. The motion passed unanimously.

**H.J.R. 3 Joint Resolution Calling for a Convention of the States for the Sole Purpose
of Proposing a Countermand Amendment to the United States Constitution
(Rep. M. Nelson)**

Rep. Nelson explained the resolution.

Spoke against the bill: Karen Zea, citizen
Jason Christensen, Utah County Independent Party
Joyce Kinmont, Eagle Forum

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

1. *Page 1, Lines 23 through 26:*

23 to the United States Constitution; ~~{and}~~
24 ▶ directs that Congress call a convention of the states, for the sole purpose of
25 considering and adopting a Countermand Amendment, within 60 days after
26 receiving the 34th state application for such convention ~~{.}~~ and
▶ declares that, as a condition of approving this joint resolution, the Legislature of
the state of Utah reserves the right to approve the terms of the proposed
Countermand Amendment, the selection of and instructions to its delegates to the
convention, and the rules and procedures of the convention prior to the
commencement of the convention.

2. *Page 3, Lines 86 through 88:*

86 Countermand Amendment, within 60 days after receiving the 34th state application for
such
87 convention. =
BE IT FURTHER RESOLVED that the Legislature of the state of Utah declares
that, as a condition of approving this joint resolution, the Legislature of the state of
Utah reserves the right to approve the terms of the proposed Countermand
Amendment, the selection of and instructions to its delegates to the convention, and
the rules and procedures of the convention prior to commencement of the
convention.
88 BE IT FURTHER RESOLVED that a copy of this resolution be sent to the leader of

SUBSTITUTE

MOTION: Rep. Nelson moved to amend the resolution as follows:

1. *Page 1, Lines 23 through 26:*

23 to the United States Constitution; ~~{and}~~
24 ▶ directs that Congress call a convention of the states, for the sole purpose of
25 considering and adopting a Countermand Amendment, within 60 days after
26 receiving the 34th state application for such convention ~~{.}~~ and

► declares that, as a condition of approving this joint resolution, the Legislature of the state of Utah reserves the right to approve the terms of the proposed Countermand Amendment, the selection of and instructions to its delegates to the convention, and the rules and procedures of the convention prior to the commencement of the convention.

2. *Page 3, Lines 65 through 68:*

65 WHEREAS, a Countermand Amendment to the United States Constitution would
66 authorize the states, upon a vote by {~~three-fifths of the~~} **the prescribed number**
of state legislatures to override and
67 invalidate a congressional statute, executive order, federal court decision, or
administrative
68 agency rule, regulation, or other action deemed injurious to the states and the people;

3. *Page 3, Lines 86 through 88:*

86 Countermand Amendment, within 60 days after receiving the 34th state application for
such
87 convention. =
BE IT FURTHER RESOLVED that the Legislature of the state of Utah declares
that, as a condition of approving this joint resolution, the Legislature of the state of
Utah reserves the right to approve the terms of the proposed Countermand
Amendment, the selection of and instructions to its delegates to the convention, and
the rules and procedures of the convention prior to commencement of the
convention.
88 BE IT FURTHER RESOLVED that a copy of this resolution be sent to the leader of

The substitute motion passed unanimously.

The original motion to pass the resolution out favorably as amended failed with Rep. Cox, Rep. Cutler, Rep. Hall, Rep. King, Rep. Oda and Rep. Wheatley voting in opposition.

H.B. 136 Campaign Disclosures for Judicial Retention Elections (Rep. Brad King)

Rep. King explained the bill to the committee.

Spoke to the bill: Mark Thomas, Director of Elections, Office of the Lieutenant Governor

MOTION: Rep. Snow moved to pass the bill out favorably. The motion passed unanimously.

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H.B. 109 Expungement of Administrative Action (*Rep. B. Greene*)

This bill was not heard.

MOTION: Rep. Cox moved to adjourn the meeting. The motion passed unanimously.

Chair Christensen adjourned the meeting at 6:55 p.m.

LaVar Christensen, Chair