

**MINUTES OF THE  
HOUSE JUDICIARY STANDING COMMITTEE MEETING**  
20 House Building, Utah State Capitol Complex  
January 28, 2016

**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. Glenda VanWagenen, 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 2:15 p.m.

**MOTION:** Rep. Nelson moved to approve the minutes of March 9, 2015. The motion passed unanimously with Rep. King and Rep. Stratton absent for the vote.

**H.B. 79      Nonpatient Cause of Action (K. McIff)**

Rep. McIff explained the bill to the committee.

After discussing the bill, Chair Christensen announced that the bill would be held and placed at the beginning of the next meeting.

**H.B. 22      Civil Asset Forfeiture - Procedural Reforms (B. Greene)**

Rep. Greene explained the bill to the committee.

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

1. Page 6, Line 176:

176 facilitate the commission of a federal or state criminal offense and any direct proceeds  
of criminal

2. Page 8, Line 219:

219 (b) The notice of intent to seek forfeiture shall describe with particularity the:

3. Page 9, Line 252 through Page 10, Line 284:

252 ~~{ (b) A} (2) The complaint for civil forfeiture under Subsection (1)(a)(iv) shall  
describe~~

253 ~~with reasonable particularity [the]:~~

254 ~~— [(i) (a) the property that is the subject of the forfeiture proceeding;~~

255 ~~— (b) a direct nexus between the seized property and the conduct giving rise to the  
256 forfeiture under Subsection 24-4-102(2);~~

257 ~~— [(ii) (c) the date and place of seizure; and~~

258 ~~— [(iii) (d) the factual allegations that constitute a basis for forfeiture.~~

259 ~~— [(2) (3) (a) After a complaint for civil forfeiture is filed in compliance with the  
260 requirements of Subsections (1) and (2), the prosecuting attorney shall serve a copy of  
the~~

261 ~~complaint and summons upon each claimant known to the prosecuting attorney within  
30 days.~~

262 ~~— (b) The prosecuting attorney is not required to serve a copy of the complaint or  
the~~

263 ~~summons upon any claimant who has disclaimed, in writing, an ownership interest in  
the~~

264 ~~seized property.~~

265 ~~— (c) Service of the complaint and summons shall be by:~~

266 ~~— (i) personal service;~~

267 ~~— (ii) certified mail, return receipt requested, to the claimant's known address; or~~

268 ~~— (iii) service by publication, if the prosecuting attorney demonstrates to the court  
that~~

269 ~~service cannot reasonably be made by personal service or certified mail.~~

270 ~~— (d) Service by publication shall be by publication of two notices, in two successive  
271 weeks, of the forfeiture proceeding:~~

272 ~~— (i) in a newspaper of general circulation in the county in which the seizure~~

~~occurred;~~  
273 ~~and~~  
274 ~~—(ii) on [Utah's Public Legal Notice Website] the public legal notice website~~  
~~established~~  
275 ~~in Subsection 45-1-101(2)(b).~~  
276 ~~—(e) Service is effective upon the earlier of:~~  
277 ~~—(i) personal service;~~  
278 ~~—(ii) mailing of a written notice; or~~  
279 ~~—(iii) publication.~~  
280 ~~—(f) Upon motion of the prosecuting attorney and a showing of good cause, the~~  
~~court~~  
281 ~~may extend the period to complete service under this section for an additional 60 days.~~  
282 ~~—(g) An answer made by a claimant under this Subsection (3) shall be filed within~~  
~~30~~  
283 ~~days after the complaint is served upon the claimant under this Subsection (3).}~~  
284 ~~[(3)(a)]~~ ~~{(4)}~~ (2) In any case where the prosecuting attorney files a complaint  
for civil

4. *Page 10, Line 290:*

290 ~~[(4)]~~ ~~{(5)}~~ (3) Except as otherwise provided in this chapter, forfeiture  
proceedings are

5. *Page 10, Line 292:*

292 ~~[(5)]~~ ~~{(6)}~~ (4) The court shall take all reasonable steps to expedite civil  
forfeiture

6. *Page 10, Line 294:*

294 ~~[(6)]~~ ~~{(7)}~~ (5) In all suits or actions brought under this section for the civil  
forfeiture of any

7. *Page 10, Line 297:*

297 ~~[(7)]~~ ~~{(8)}~~ (6) A claimant may file an answer to a complaint for civil forfeiture  
without

8. *Page 17, Line 509:*

509 criminal {**forfeitures**} **forfeiture** actions under Section 24-4-105 shall be deposited  
into the account.

The motion passed unanimously.

Spoke for the bill:

Connor Boyack, Libertas Institute  
Marina Lowe, ACLU  
Greg Boren, Citizen

Spoke against the bill:

Chad Platt, Statewide Association of Prosecutors, distributed a copy of Utah  
Code Section 24-4-105, Criminal Forfeiture Procedure.

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

Vice Chair Nelson assumed the Chair.

**H.B. 85 Private Attorney General Doctrine (B. Greene)**

The bill was not considered.

**H.B. 148 Protective Order Amendments (A. Romero)**

Rep. Romero explained the bill with the assistance of Stewart Ralphs, Legal Aid Society.

Spoke for the bill:

Dan Deuel, National Parents Organization of Utah

**MOTION:** Rep. King moved to replace H.B. 148 with 1st Sub. H.B. 148. The motion passed  
unanimously with Rep. Christensen and Rep. Greene absent for the vote.

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

1. *Page 2, Line 56 through Page 3, Line 63:*

56 (5) If a divorce proceeding is pending between [~~the~~] parties to a protective order action,  
57 the protective order {+} shall {+} {**may**} be dismissed when the court issues  
a decree of divorce for the

58 parties if:  
59 (a) the petitioner in the protective order action is present or has been given notice in  
60 both the divorce and protective order action of the hearing; and  
61 (b) the court {+} specifically finds that the order need not continue {+} f].  
~~{after making specific~~  
62 ~~findings on each factor described}~~ and as provided in Subsection (1),  
~~{determines that}~~ the petitioner no longer has  
63 a reasonable fear of future abuse.

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

**MOTION:** Rep. Cutler moved to pass the bill out favorably as amended. The motion passed unanimously with Rep. Stratton absent for the vote.

**MOTION:** Rep. Wheatley moved to adjourn the meeting. The motion passed unanimously with Rep. Stratton absent for the vote.

Vice Chair Nelson adjourned the meeting at 4:40 p.m.